C. NOTICES AND CONSENTS TO ASSIGNMENT

CONSENT TO ASSIGNMENT

This CONSENT TO ASSIGNMENT (this "Consent"), entered into and effective June 29, 2006, is executed by the Virginia Department of Transportation, a department of the Commonwealth of Virginia (the "Department"), for the benefit of Transurban (895) LLC, a Delaware limited liability company (the "Assignee").

RECITALS

A. The Department and Pocahontas Parkway Association, a non-stock, not-for-profit corporation (as assignee of FD/MK Limited Liability Company ("FD/MK") pursuant to that certain Project Financing, Assignment and Assumption Agreement dated June 3, 1998 and hereinafter, the "Association") are parties to that certain Comprehensive Agreement to Develop and Operate Route 895 Connector, dated June 3, 1998 (the "Original Comprehensive Agreement"), pursuant to which the limited access tollway known as the Route 895 Connector located in Richmond, Virginia (and informally known as the Pocahontas Parkway) was developed and constructed and is being managed and operated (the "Project"). Each capitalized term used and not otherwise defined herein shall have the meanings assigned to such term in the Original Comprehensive Agreement.

B. In connection with the development, operation and management of the Project, the Department has also entered into the E-ZPass Electronic Toll Collection Agreement, dated as of August 31, 2005, including the Reciprocity Agreement attached thereto (the "ETC Agreement").

C. The Association and the Assignee have entered into an Asset Purchase Agreement, dated as of June 21, 2006 (the "Asset Purchase Agreement"), pursuant to which the Association intends to transfer, convey, sell and assign to the Assignee, and the Assignee intends to purchase, acquire and assume, all of the assets, properties and rights to manage, operate, maintain and collect tolls on the Project, and certain liabilities relating thereto, on the terms and subject to the conditions set forth in the Asset Purchase Agreement (such acquisition and other transactions contemplated by the Asset Purchase Agreement being referred to herein collectively as the "Transactions").

D. In order to consummate the Transactions on the Closing Date (as defined in the Asset Purchase Agreement), the Association will be required to assign all of its right, title and interest as Operator in, to and under the Original Comprehensive Agreement to the Assignee. The Association may not do so, however, without the Department's prior written consent as required by Section 20.1(a) of the Original Comprehensive Agreement.

E. On the Closing Date, the Department is delivering this Consent to enable the Association to assign its right, title and interest as Operator in, to and under the Original Comprehensive Agreement and the ETC Agreement to the Assignee and to address the other matters as set forth hereunder, because the Department is satisfied that the Transactions provide the following benefits to the Department:

(1) the purchase price paid by the Assignee to the Association provides sufficient funds to repay the SIB Bond, including accrued interest thereon;

(2) the Association is repaying to the Department all interest and expenses owed to the Department for certain operation and maintenance costs incurred by the Department since the Project opened to traffic;

(3) the Assignee is entering into an amendment and restatement of the Original Comprehensive Agreement (the "Amended and Restated Comprehensive Agreement") in the form attached hereto as Appendix A, which, among other things, relieves the Department of its long-term operations and maintenance responsibilities under Section 8.3 of the Original Comprehensive Agreement; and

(4) the Assignee is reimbursing the Department on the Closing Date for its out-of-pocket expenses incurred in connection with the Transaction.

NOW, THEREFORE, in consideration of the foregoing recitals and the agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Department, intending to be legally bound, hereby agrees as follows:

1. Consent to Assignment. In accordance with Section 20.1(a) of the Original Comprehensive Agreement, the Department hereby irrevocably consents to the assignment by the Association of its right, title and interest as Operator in, to and under each of the Original Comprehensive Agreement and the ETC Agreement to the Assignee; provided that none of FD/MK's duties, obligations and liabilities arising under the Design-Build Contract (as defined in the Original Comprehensive Agreement) or its indemnity obligations pursuant to the Original Comprehensive Agreement, shall be assigned to the Assignee. The Department hereby acknowledges and raises no objections to the consummation of the Transactions contemplated by the Asset Purchase Agreement and the other Acquisition Documents (as defined in the Asset Purchase Agreement).

2. Assignment by the Department.

(a) The Department hereby irrevocably and absolutely assigns to the Assignee all of the Department's rights under the Design-Build Contract, including warranties provided by FD/MK and by any subcontractor or vendor required to provide warranties thereunder.

(b) Pursuant to Section 18.04(e) of the Amended and Restated Comprehensive Agreement, the Department hereby (x) grants to the Assignee a nonexclusive, nontransferable, irrevocable, fully paid-up license to use any Proprietary Intellectual Property (as defined in the Amended and Restated Comprehensive Agreement) of the Department that has been developed for the Project, solely in connection with the operation, maintenance and other incidental activities of the Project, and (y) assigns in favor of the Assignee the Department's rights in respect of any license by the Department's software suppliers for the use of any of their

respective intellectual property for the Project, and the Department's rights under any escrow for source code and related documentation relating to such intellectual property, including, without limitation, its rights and interest in that certain Source Code Escrow Agreement, dated May 4, 2004, among the Department, InTranS Group Inc., FD/MK and SunTrust Bank, as escrow agent. The assignment provided in paragraph 2(b)(y) is revocable by the Department upon the termination of the Amended and Restated Comprehensive Agreement as provided therein (including by reason of any Operator Default under Section 17.01 of the Amended and Restated Comprehensive Agreement) or upon any earlier repossession of the Project in accordance with the terms of the ARCA.

3. Status of Project Agreements on Closing Date. To the best of its knowledge and belief, the Department certifies as of the date hereof that:

(a) A true, correct and complete copy of the Original Comprehensive Agreement is attached hereto as Appendix B, which copy of the Original Comprehensive Agreement represents the entire agreement between the Department and Association as to the matters referred to therein. The Original Comprehensive Agreement has not been rescinded or terminated and is in full force and effect, and there have been no amendments or modifications to the Original Comprehensive Agreement other than as provided for in the Directive Letters described in the following clause (b) and as contemplated by the Amended and Restated Comprehensive Agreement.

(b) True, correct and complete copies of the following directive letters issued pursuant to the Original Comprehensive Agreement are attached hereto as Appendix C:

(i) a Directive Letter – Discretionary Directed Change, dated November 28, 2000, regarding the Route 895/I-295 ramps,

(ii) a Directive Letter dated November 28, 2000 regarding the Airport Connector preliminary engineering,

(iii) a Directive Letter – Discretionary Directed Change, dated November 12, 2002, regarding the Airport Connector and,

(iv) a Directive Letter – Discretionary Directed Change, dated April 22, 2003, regarding Britton Road over Route 895 (collectively, the "Directive Letters").

Except for such Directive Letters, no other directive letters or other amendments, supplements or modifications to the Original Comprehensive Agreement have been executed.

(c) A true, correct and complete copy of the ETC Agreement attached hereto as Appendix D represents the entire agreement between the Department and the Association as to the matters referred to therein. The ETC Agreement has not been rescinded or terminated and is in full force and effect, and there have been no amendments or modifications to the ETC Agreement.

The documents contained in Appendices A through D are collectively referred to herein as the "Project Agreements."

(d) No FD/MK Default or Association Default as defined in Sections 17.1 and 17.4 of the Original Comprehensive Agreement attributable to FD/MK or the Association, as applicable, has occurred and is continuing and no breach, default, unsatisfied condition or other event has occurred, and no circumstance exists, that constitutes such an FD/MK Default or Association Default, as applicable, or that, with the giving of notice by the Department or the passage of time (including the passage of time during which a default has occurred and has not yet been cured during any applicable grace period) or both, would constitute an FD/MK Default or Association Default or would otherwise allow the Department to terminate the Original Comprehensive Agreement, suspend the Department's performance thereunder or otherwise excuse the Department from any failure to perform thereunder.

(e) No Department Default as defined in Section 17.7 of the Original Comprehensive Agreement attributable to the Department has occurred and is continuing, and no breach, default, unsatisfied condition or other event has occurred, and no circumstance exists, that constitutes such a Department Default or that, with the giving of notice by the Association or the passage of time (including the passage of time during which a default has occurred and has not yet been cured during any applicable grace period) or both, would constitute such a Department Default.

(f) The Department has no knowledge of any facts entitling the Department to any claim, counterclaim, offset or defense against the Association in respect of any of the Project Agreements and there exists no dispute between the Association and the Department.

(g) The Department has not received notice of any assignment of all or any part of the right, title and interest of the Association in, to and under any of the Project Agreements.

(h) As of the date hereof, there are no proceedings pending or threatened against or affecting the Department in any court or by or before any governmental authority or arbitration board or tribunal which could reasonably be expected to have a material adverse effect on the ability of the Department to perform its obligations under, or which purports to affect the legality, validity or enforceability of, this Consent or any of the Project Agreements.

(i) As of the date hereof, no default or breach or other event or condition exists under any of the Project Agreements that (i) permits any party thereto to terminate such agreement or suspend its performance thereunder or excuse such party from any failure to perform thereunder or (ii) is reasonably likely to result in a material breach or material default thereunder.

4. Third-Party Beneficiary.

(a) The Assignee may rely upon the certifications and representations made by the Department in this Consent and is a third-party beneficiary hereto.

(b) This Consent shall be binding upon the Department and its successors and assigns. This Consent is provided for the sole benefit of the Assignee, and, except as specifically provided herein, shall not confer any rights or remedies upon any Person other than the Assignee and its respective successors and permitted assigns. No third party, including FD/MK, may rely on any statements of fact or representation or warranty made by the Department in this Consent, and the Department retains any claims it may have against such third parties.

5. Representations and Warranties. The Department represents and warrants to each of the Association and the Assignee that:

(a) The Department has all requisite power and authority to execute and deliver and to perform its obligations under each of the Project Agreements and this Consent.

(b) The execution, delivery and performance by the Department of each of the Project Agreements and this Consent have been duly authorized by all necessary action.

(c) Each of the Project Agreements and this Consent constitutes a legal, valid and binding obligation of the Department enforceable against it in accordance with the respective terms thereof, subject to (i) the effect of bankruptcy, insolvency, reorganization, moratorium or other similar laws and judicial decisions now or hereafter in effect affecting, generally, the enforcement of creditor's rights and remedies, (ii) the effect of rules of law governing equitable remedies and defenses, and the discretion of any court of competent jurisdiction in awarding equitable remedies, and (iii) the effect of rules of law governing enforcement and collection of damages against the Commonwealth of Virginia.

(d) The execution, delivery and performance of this Consent will not violate any applicable Law.

(e) The execution, delivery and performance of this Consent does not amend, modify or otherwise alter in any way the Original Comprehensive Agreement and the rights, duties and obligations of the parties as specified therein, other than as contemplated by the Transactions.

6. Miscellaneous.

(a) Notices. All notices, other communications and approvals required or permitted by this Consent shall be in writing and shall be delivered, sent by certified or registered mail (return receipt requested and postage prepaid), addressed as follows:

(i) in the case of the Department:

Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219
Attention: Commissioner
Facsimile: (804) 786-6250

With a copy to:

Senior Assistant Attorney General
Commonwealth of Virginia, Office of the Attorney General
900 E. Main Street
Richmond, Virginia 23219
Attention: John J. Beall, Jr., Esq.
Facsimile: (804) 786-9136

and to:

Karen J. Hedlund, Esq.
Nossaman, Guthner, Knox & Elliott, LLP
2111 Wilson Blvd., Suite 600
Arlington, Virginia 22201
Facsimile: (703) 351-9506

(ii) in the case of the Assignee:

Transurban (895) LLC
P.O. Box 7693
Richmond, Virginia 23231
Facsimile: (804) 795-1782

with a copy to:

Daniel A. Mathews
Orrick, Herrington & Sutcliffe LLP
666 Fifth Avenue
New York, New York 10103-0001
Facsimile: (212) 506-5151

or such other persons or addresses as either party may from time to time designate by notice to the other. A notice, other communication or approval shall be deemed to have been sent and received (i) on the day it is delivered, or if such day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other communication or approval shall be deemed to have been sent and received on the next Business Day, or (ii) on the fourth Business Day after mailing if sent by U.S. registered mail. For purposes of this Consent, "Business Day" shall have the meaning specified in the Amended and Restated Comprehensive Agreement.

(b) Headings. The headings herein are for convenience only and shall be ignored in construing this Consent.

(c) Governing Law. This Consent shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. Venue for any legal action arising out of this Consent shall lie in the Circuit Court in the City of Richmond, Virginia, Division I.

(d) Severability. In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

[signatures to follow]

IN WITNESS WHEREOF, the parties have executed this Consent as of the date first written above.

VIRGINIA DEPARTMENT OF TRANSPORTATION

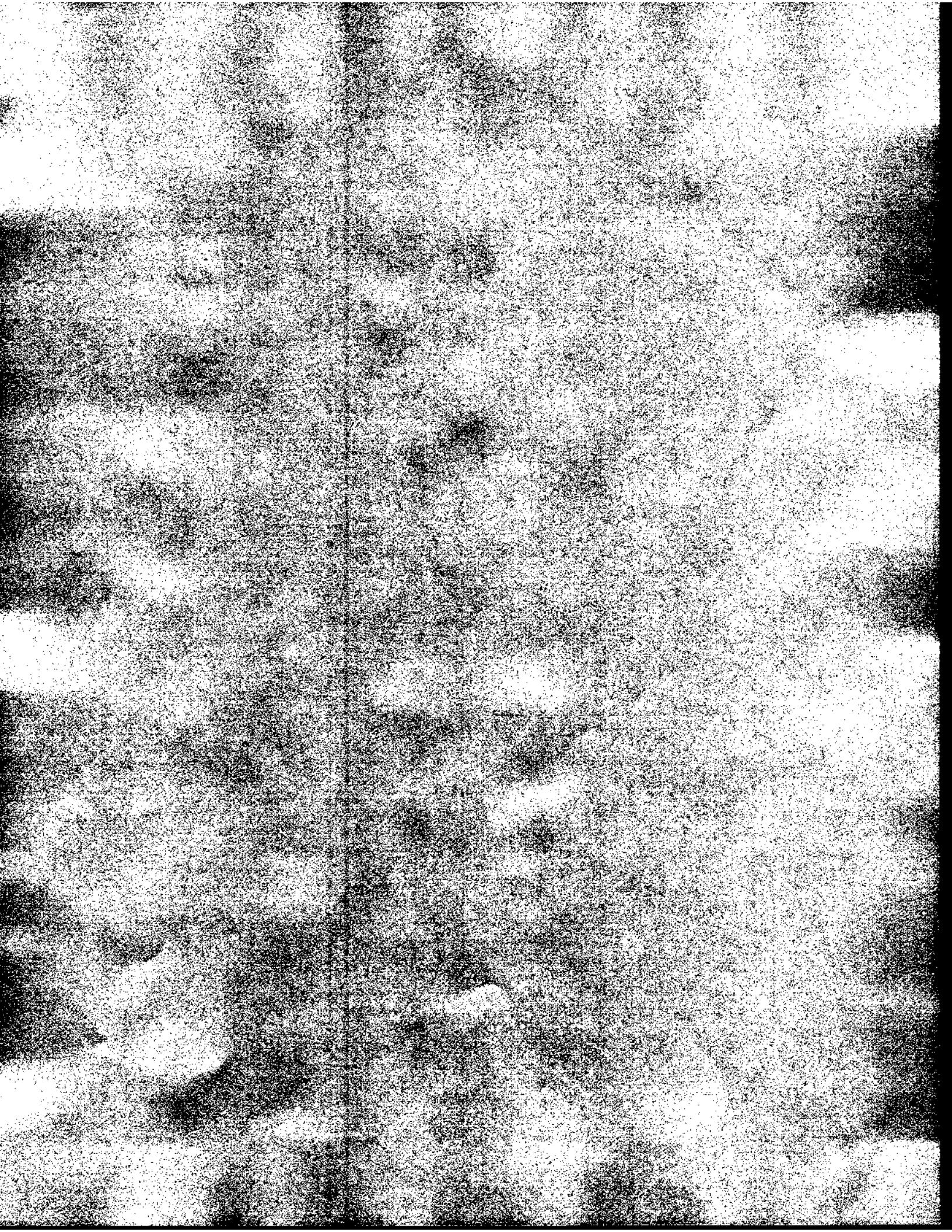
By: Gregory A. Whirley
Name: Gregory A. Whirley
Title: Acting Commissioner

Appendix A Copy of the Amended and Restated Comprehensive Agreement
Appendix B Copy of the Original Comprehensive Agreement
Appendix C Copy of the Directive Letters
Appendix D Copy of the ETC Agreement

Appendix A to
Consent to Assignment

COPY OF AMENDED AND RESTATED COMPREHENSIVE AGREEMENT

SEE TAB 78



Appendix B
to Consent to Assignment

Copy of the Original Comprehensive Agreement

COMPREHENSIVE AGREEMENT TO DEVELOP AND OPERATE ROUTE 895 CONNECTOR

DATED AS OF JUNE 3, 1998

BY AND BETWEEN

Virginia Department of Transportation,

a Department of the Commonwealth of Virginia

AND

FD/MK LIMITED LIABILITY COMPANY,

a Delaware limited liability company

TABLE OF CONTENTS

Page

ARTICLE I RECITALS 1
ARTICLE II DEFINITIONS 4
ARTICLE III ESTABLISHMENT OF PUBLIC-PRIVATE TRANSACTION 5
Section 3.1 Basic Agreement 5
Section 3.2 Parties to Transaction; Roles and Responsibilities 5
Section 3.3 Project Agreements 9
Section 3.4 Nature of Parties' Interests Under Certain Project Agreements 15
Section 3.5 FD/MK Development Fee 16
Section 3.6 Right to Cross Navigable Water Courses 16
ARTICLE IV TOLLING OF PROJECT 17
Section 4.1 Right to Charge Tolls 17
Section 4.2 Rate Covenant 17
Section 4.3 Change in User Classification and Categories 17
Section 4.4 Additional Provisions Respecting Tolls 19
ARTICLE V REGULATORY APPROVALS 20
Section 5.1 Operator Obligation to Obtain Regulatory Approvals 20
Section 5.2 NEPA Compliance 20
Section 5.3 Federal Interstate Designation 20
ARTICLE VI FINANCING OF PROJECT 21
Section 6.1 Bond Financing; Issuance of Bonds 21
Section 6.2 Department Authorization of Bonds and Lien; Conditions Precedent 21
Section 6.3 No Department Liability for Bonds 25
Section 6.4 Reserved 26
Section 6.5 State Financial Participation 26
Section 6.6 Assignment and Use of Revenues 28
Section 6.7 Modifications to Use of Funds if Required in Connection with Public Debt 28
Section 6.8 Reserve Accounts 29
ARTICLE VII DESIGN, ACQUISITION AND CONSTRUCTION 30
Section 7.1 FD/MK Obligation to Design 30
Section 7.2 FD/MK Obligation to Construct 30
Section 7.3 Right of Way Acquisition 30
Section 7.4 FD/MK Draws 30
ARTICLE VIII PROJECT MANAGEMENT 31
Section 8.1 Conditions Precedent to Notice to Proceed with Operations 31
Section 8.2 Operator Obligation to Manage and Operate 32
Section 8.3 Delegation of Operations and Maintenance to Department; Department Charges 32
Section 8.4 Payment of Current Expenses; Association Working Capital Account 37
Section 8.5 Annual Budget 39

Section 8.6 Department Access and Inspection. 39
ARTICLE IX PROJECT ENHANCEMENTS, DIRECTED CHANGES AND COMPLIANCE ORDERS 40
Section 9.1 Project Enhancements 40
Section 9.2 Funding of Directed Changes 41
Section 9.3 Compliance Orders 42
ARTICLE X DEPARTMENT OVERSIGHT AND OTHER SERVICES 43
Section 10.1 Right to Oversee Work 43
Section 10.2 Compensation 43
ARTICLE XI CONTRACTING PRACTICES 45
Section 11.1 Limitation on Operator's Contracting Powers 45
Section 11.2 Obligation to Refrain from Discrimination 45
ARTICLE XII INTERRELATIONS AMONG TRANSPORTATION FACILITIES 46
Section 12.1 Competitive Transportation Facilities 46
Section 12.2 Coordination Regarding Certain Transportation Facilities 46
Section 12.3 Traffic Management Activities 47
Section 12.4 ITS Activities 48
ARTICLE XIII RELIANCE, INDEMNIFICATION AND INSURANCE 49
Section 13.1 Limitations on Operator's Right to Rely 49
Section 13.2 Indemnities from FD/MK and Association 50
Section 13.3 Responsibilities Regarding Insurance 51
ARTICLE XIV INTENTIONALLY OMITTED 53
ARTICLE XV REPRESENTATIONS, WARRANTIES AND FINDINGS 54
Section 15.1 Department Representations and Warranties 54
Section 15.2 FD/MK Representations and Warranties 54
Section 15.3 Association Representations and Warranties 55
Section 15.4 Survival of Representations and Warranties 56
Section 15.5 Department's Findings Under PPTA 56
ARTICLE XVI TERMINATION 58
Section 16.1 Termination Upon Satisfaction or Defeasance of Bonds 58
Section 16.2 Termination for Public Convenience 58
Section 16.3 Other Unilateral Rights to Terminate 60
Section 16.4 Association Actions Upon Termination 61
Section 16.5 Liability After Termination 62
Section 16.6 Exclusive Termination Remedies 62
ARTICLE XVII DEFAULTS AND REMEDIES 63
Section 17.1 FD/MK Defaults 63
Section 17.2 FD/MK Cure Periods 64
Section 17.3 Department Remedies for FD/MK Default 64
Section 17.4 Association Defaults 65
Section 17.5 Association Cure Periods 66
Section 17.6 Department Remedies for Association Defaults 67
Section 17.7 Department Defaults 68
Section 17.8 Department Cure Periods 68
Section 17.9 Operator Remedies 69

Section 17.10 Dispute Resolution; No Declaratory Judgment Procedure 70
Section 17.11 Bankruptcy of Association 71
ARTICLE XVIII RECORDS, REPORTS, WORK PRODUCT AND INTELLECTUAL PROPERTY 72
Section 18.1 Maintenance of Records 72
Section 18.2 Public Records 72
Section 18.3 Reporting Requirements and Inspection and Audit Rights 73
Section 18.4 Intellectual Property 74
ARTICLE XIX RESERVED RIGHTS 75
Section 19.1 Exclusions from Operator's Interests 75
Section 19.2 Department Reservation of Rights 75
Section 19.3 Disgorgement 75
Section 19.4. Alternate Treatment of Reserved Rights 75
ARTICLE XX MISCELLANEOUS 76
Section 20.1 Assignment 76
Section 20.2 No Gift or Dedication 76
Section 20.3 Notices 77
Section 20.4 Binding Effect 79
Section 20.5 Relationship of Parties 79
Section 20.6 No Third Party Beneficiaries 79
Section 20.7 Waiver 79
Section 20.8 No Brokers 80
Section 20.9 Governing Law and Venue 80
Section 20.10 Use of Police Power 80
Section 20.11 Survival 80
Section 20.12 Subpoena 81
Section 20.13 Construction and Interpretation of Agreement 81
Section 20.14 Counterparts 82
Section 20.15 Entire Agreement; Amendment 82

LIST OF EXHIBITS

EXHIBIT	DESCRIPTION
A	Definitions
B	Description of Project
C	Design-Build Contract
D	Completion Guaranty
E	Project Financing Agreement
F	Master Indenture
G	First Supplemental Indenture
H	SIB Loan Agreement
I	Contractor Loan Agreement
J	Guaranty of Contractor Loan Agreement
K	Memorandum and Assignment
L	Schedule of Initial Toll Rates
M	Association Articles and Bylaws

COMPREHENSIVE AGREEMENT TO DEVELOP AND OPERATE ROUTE 895 CONNECTOR

This COMPREHENSIVE AGREEMENT TO DEVELOP AND OPERATE ROUTE 895 CONNECTOR ("Agreement") is made and entered into as of June 3, 1998, by and between the Virginia Department of Transportation ("Department"), a department of the Commonwealth of Virginia ("State"), the address of which Department is 1401 East Broad Street, Richmond, Virginia 23219, and FD/MK Limited Liability Company, a Delaware limited liability company ("FD/MK"), the address of which is 100 Fluor Daniel Drive, Greenville, South Carolina 29607.

ARTICLE I

RECITALS

Section 1.1. On March 25, 1995 the Governor of the State signed into law, effective July 1, 1995, the Public-Private Transportation Act (as amended, the "PPTA").

Section 1.2. In enacting the PPTA, the State General Assembly found and declared, among other things, that:

(a) there is a public need for timely acquisition or construction of and improvements to transportation facilities within the State that are compatible with state and local transportation plans;

(b) such public need may not be wholly satisfied by existing ways in which transportation facilities are acquired, constructed or improved; and

(c) authorizing private entities to acquire, construct, improve, maintain, and/or operate one or more transportation facilities may result in the availability of such transportation facilities to the public in a more timely or less costly fashion, thereby serving the public safety and welfare.

Section 1.3. The PPTA grants the Department the authority to allow private entities to construct and/or operate qualifying transportation facilities if the Department determines there is a need for the facilities and private involvement would provide the facilities to the public in a timely and cost-effective fashion.

Section 1.4. The PPTA allows for both solicited and unsolicited project proposals.

Section 1.5. On July 1, 1995 the Department adopted Implementation Guidelines developed by the Commonwealth Transportation Commissioner (the "Commissioner") for the selection of solicited and unsolicited proposals for negotiation under the Act.

Section 1.6. Pursuant to the PPTA, on November 8, 1995, FD/MK submitted an unsolicited conceptual proposal (the "Conceptual Proposal") to Department for the design, construction, operation and maintenance of certain transportation facilities which collectively the Department refers to as the Route 895 Connector and which FD/MK wishes to designate as the Pocahontas Parkway.

Section 1.7. The proposed transportation facilities have been the subject of long-term environmental planning and design, culminating in an environmental impact statement and record of decision.

Section 1.8. The proposed transportation facilities constitute an approximately nine mile, four lane, limited access tollway to be located from the current eastern terminus of Chippenham Parkway (State Route 150) at I-95 to a connection with I-295 southeast of Richmond International Airport primarily in the southeastern portion of Henrico County (but extending for a short distance in the eastern tip of Chesterfield County and including a small portion in the City of Richmond), including a new high-level bridge crossing Route I-95 and the James River south of the Port of Richmond's Deepwater Terminal.

Section 1.9. In accordance with the Implementation Guidelines, the Department duly posted and published notice of the Conceptual Proposal and referred it to the Initial Review Committee for preliminary review. No competing proposals were received in response to the posted and published notice.

Section 1.10. Following a determination by the Initial Review Committee that the Conceptual Proposal merited further review, on March 21, 1996 the Commonwealth Transportation Board adopted a resolution, approving the Conceptual Proposal for further evaluation and inviting a detailed proposal for consideration by the Public-Private Transportation Advisory Panel ("Advisory Panel") in accordance with the Implementation Guidelines.

Section 1.11. On July 24, 1996, FD/MK submitted its detailed proposal (the "Detailed Proposal") to the Advisory Panel for consideration.

Section 1.12. After proposal clarification, the Advisory Panel evaluated the Detailed Proposal using the "Proposal Evaluation and Selection Criteria" set forth in the Implementation Guidelines. Based on such evaluation, the Advisory Panel, on May 5, 1997, recommended the Project to the Commissioner for development pursuant to the PPTA, subject to the successful negotiation, execution and delivery of a comprehensive agreement.

Section 1.13. On May 21, 1997, negotiations with FD/MK for a comprehensive agreement, consisting of this Agreement and related agreements, commenced at the direction of the Commissioner.

NOW, THEREFORE, in consideration of the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Department and Operator agree as follows:

ARTICLE II

DEFINITIONS

All capitalized terms used in this Agreement but not expressly defined in this Agreement have the respective meanings set forth in **Exhibit A** attached to this Agreement.

ARTICLE III

ESTABLISHMENT OF PUBLIC-PRIVATE TRANSACTION

Section 3.1. Basic Agreement.

(a) Department and FD/MK agree that the Project, as described in **Exhibit B** attached hereto and as more particularly identified in the Project scope document attached to the Design-Build Contract, shall be designed, permitted, financed, acquired, constructed, equipped, managed, insured, operated and maintained in a transaction involving, together, a series of agreements setting forth distinct roles and responsibilities of several public and private sector participants.

(b) This **Article III** identifies and establishes the basic roles and responsibilities of such participants. This **Article III** is not intended, and shall not be construed, to impose any obligations on any party, or provide any party with any rights, that are in addition to any rights or obligations set forth elsewhere in this Agreement and the other Project Agreements in connection with the subject matter thereof.

(c) FD/MK's rights, obligations and liabilities with respect to the design and construction of the Project (the "Design-Build Duties") shall be as stated in, or arising from, the Design-Build Contract. Notwithstanding any description of design and construction activities or of the Design-Build Contract appearing in this Agreement, this Agreement shall neither add to nor diminish from FD/MK's Design-Build Duties.

Section 3.2. Parties to Transaction; Roles and Responsibilities.

(a) The parties to the transaction and the Project Agreements under which the Project shall be designed, permitted, financed, acquired, constructed, equipped, managed, insured, operated and maintained are the Department, the CTB, FD/MK, the Association, the Trustee, FC, MKC (Delaware) and MKC (Ohio).

(b) The Association has been formed as a Virginia nonstock, nonprofit corporation to assist FD/MK in financing the Project. FD/MK caused the Association to be incorporated and approved the appointment of the three initial voting directors. Under the Association's governing instruments, (i) positions are established for five voting directors and two non-voting directors, (ii) successors to the three voting directors appointed by the incorporators are elected by a majority vote of a quorum of voting directors, (iii) the Department appoints the other two voting directors and one non-voting director and (iv) FD/MK appoints the other non-voting director.

(c) Fluor Daniel, Incorporated and MKC (Ohio) are the only members of FD/MK. MKC (Ohio) is a wholly owned subsidiary of MKC (Delaware).

(d) The Department:

(i) shall establish, pursuant to the Project Agreements, the terms and conditions under which the Project will be implemented;

(ii) hereby grants FD/MK the right to develop the Project on the terms and conditions set forth in this Agreement, the Design-Build Contract and the other Project Agreements;

(iii) may perform Oversight Services with respect to Project implementation;

(iv) shall authorize the Association to issue the Bonds to finance the Project if certain conditions precedent are satisfied;

(v) shall request the CTB to authorize the SIB Loan;

(vi) shall acquire title to and, as necessary and appropriate, condemn, all rights of way for the Project as provided in the Design-Build Contract;

(vii) shall take acceptance of the Work upon satisfactory completion thereof;

(viii) shall operate and maintain the Project following its completion, in accordance with **Section 8.3**;

(ix) subject to appropriation and availability of funds, shall annually budget and advance funds to pay for Current Expenses and costs of Extraordinary Maintenance and Repair of the Project which exceed funds available for such purpose under Section 505 of the Master Indenture, as more particularly provided in **Section 6.5(d)**, with the limited recourse obligation of the Association to reimburse such advances, without interest, if, as and when funds become available for such purpose under Section 505 of the Master Indenture; and

(x) shall protect the Operator from the economic impact of Competitive Transportation Facilities to the extent provided in **Sections 12.1 and 17.9(b)**.

(e) FD/MK:

(i) shall have the right and obligation to design, obtain all Regulatory Approvals for, perform Project Right of Way acquisition and utility relocation services for, construct and perform all other Work respecting the Project as and when provided in the Design-Build Contract;

(ii) shall cause the Project to be insured, as and when provided in the Design-Build Contract;

(iii) shall provide a dual obligee payment bond and a dual obligee performance bond for the Work, as and when provided in the Design-Build Contract;

(iv) shall irrevocably and absolutely assign all its rights and delegate its obligations as Operator hereunder and under the PPTA to the Association, such assignment and delegation to be automatically effective on the Transition Date, as provided in the Project Financing Agreement; provided that the effectiveness of such assignment shall not relieve FD/MK of any of its continuing obligations under the Design-Build Contract;

(v) shall cause the Association to issue the Bonds through arrangements and negotiations with underwriters and rating agencies, as provided for in **Article VI** and the Project Financing Agreement, and shall use its best efforts to have the Financial Closing Date occur prior to December 31, 1998;

(vi) until the Transition Date, shall comply with and perform all the duties and obligations of an operator under the PPTA and of the Operator under this Agreement and the other Project Agreements, including the duties listed in Section 56-565 F. of the PPTA and, effective on the Transition Date, cause the Association to assume all of the on-going duties of an operator under the PPTA with respect to the Project and of the Operator under this Agreement and the other Project Agreements, as provided in the Project Financing Agreement, provided that FD/MK shall not thereby be relieved of any of its continuing obligations under the Design-Build Contract;

(vii) shall cause FC, MKC (Delaware) and MKC (Ohio) to jointly and severally guarantee performance and completion of all FD/MK's obligations under this Agreement, the Design-Build Contract and the Project Financing Agreement (including but not limited to FD/MK's warranty and indemnification obligations), in accordance with the provisions of the Completion Guaranty; and

(viii) shall issue and fund, and cause FC, MKC (Delaware) and MKC (Ohio) to jointly and severally guarantee issuance and funding of, a revolving line of credit to the Association in the amount of $5 million, to be available to pay Debt Service on the Senior Bonds and First Tier Subordinate Bonds whenever funds available for such purpose under the Indenture are insufficient to pay such Debt Service, and to be repaid with interest, all in accordance with the provisions of the Contractor Loan Agreement and the Guaranty of Contractor Loan Agreement.

(f) The Association:

(i) shall have the right and obligation to issue the Bonds on the Financial Closing Date, subject to, among other things, the approval and consent of the Department, in accordance with the provisions of the Master Indenture and the First Supplemental Indenture;

(ii) pursuant to the Project Financing Agreement, shall, as of the Transition Date, have the rights, and assume all the on-going duties, of an operator under the PPTA with respect to the Project and of the Operator under this Agreement and the other Project Agreements (but not the Design-Build Contract), including but not limited to the limited recourse obligation to pay the costs of managing, operating, insuring, promoting, maintaining, policing and providing incident response for the Project to the extent of funds available for such purposes in accordance with the provisions of the Indenture;

(iii) shall delegate to the Department the responsibility to operate, maintain, police and provide incident response for the Project, in accordance with Section 8.3;

(iv) shall have the right and obligation to fix and charge user fees and tolls for vehicles using the Project and to modify the same from time to time, pursuant to **Sections 4.1 and 4.2** and the provisions of the Indenture;

(v) subject to availability of funds therefor, shall promote, market and advertise the Project pursuant to **Section 8.2(c)** and Section 7 of the Project Financing Agreement;

(vi) only at Department's request and direction and subject to availability of funds therefor, shall, or shall enter into contracts with others to, design, obtain Regulatory Approvals for, acquire right of way for, relocate utilities respecting, construct, install, test and open to the public Project Enhancements, improvements pursuant to Compliance Orders and/or improvements respecting Reserved Rights; and

(vii) shall have the right to enter onto the Project Right of Way as reasonably necessary for carrying out the foregoing purposes.

(g) FC, MKC (Delaware) and MKC (Ohio) shall jointly and severally:

(i) guarantee to the Department and Association performance and completion of all FD/MK's obligations under this Agreement, the Design-Build Contract and the Project Financing Agreement (including but not limited to FD/MK's warranty and indemnification obligations), in accordance with the provisions of the Completion Guaranty; and

(ii) guarantee the obligation of FD/MK to fund the $5 million line of credit to the Association pursuant to, and in accordance with the terms of, the Contractor Loan Agreement.

(h) The Trustee in accordance with the provisions of the Indenture:

(i) will act as trustee for the benefit of the Owners of the Bonds;

(ii) will take a collateral assignment of, administer and enforce Association's rights in the Trust Estate;

(iii) will apply proceeds of the Public Debt toward, among other things, the costs of developing and constructing the Project;

(iv) to the extent SIB Loan proceeds are deposited with the Trustee, will apply proceeds of the SIB Loan toward costs of engineering, right of way acquisition, utility relocation and other Non-Construction Costs approved by the Department;

(v) will apply Revenues to the purposes and in the priority set forth in the Master Indenture; and

(vi) will authenticate the Bonds and carry out all other functions of the Trustee set forth in the Indenture.

(i) The CTB will authorize and administer the SIB Loan pursuant to the provisions of the SIB Loan Agreement.

Section 3.3. Project Agreements. The Project Agreements and their content are briefly described below. The Project Agreements are to be read and construed together, and together constitute the comprehensive agreement under the PPTA (notwithstanding the fact that this Agreement is entitled "Comprehensive Agreement").

(a) Comprehensive Agreement. The Department and FD/MK are entering into this Agreement to establish the general structure and arrangements for implementing the Project and to establish rights and responsibilities of the Operator respecting the Project, primarily for the period from and after the Transition Date. This Agreement also provides FD/MK a $6 million development fee payable from proceeds of the Public Debt if and when financial closing occurs.

(b) Design-Build Contract. Concurrently with execution of this Agreement, the Department and FD/MK are entering into the Design-Build Contract, in the form attached to this Agreement as **Exhibit C**, pursuant to which FD/MK shall have, among other things:

(i) the obligation to use diligent efforts to satisfy all conditions precedent to the start of construction work set forth in the Design-Build Contract;

(ii) the right and obligation to complete the design of and construct the Project, using a design-build method, for a Contract Price of $302,108,661 (plus contingency described in clause (iii)(B), below), made up of the following elements:

(A) $251,809,520, as a lump sum, fixed price;

(B) unit pricing for Bridge Foundation Work, subject to a guaranteed maximum price of $36,299,141;

(C) $14,000,000, as the ROW/Utility Allowance; and

(iii) available to it and Department the following additional amounts:

(A) $630,000, as a Department oversight budget to pay for Department's Oversight Services relating to Project construction; and

(B) $15,000,000, as a contingency fund, to which FD/MK will have resort for ROW/Utility Allowance overruns, certain limited ETTM System Work overruns and for certain limited, contractually authorized claims and change orders, and to which Department will have resort for Oversight Budget overruns, ROW/Utility Allowance overruns, Safety Directed Changes and, after all other amounts are paid, to be paid to the Department Capital Cost Savings Account to be used in any manner related to the Project that the Department directs;

(iv) the obligation to reduce the lump sum, fixed price set forth in clause (ii)(A) above by 50% of the amount by which the guaranteed maximum price for the Bridge Foundation Work (i.e. $36,299,141) exceeds the actual cost of the Bridge Foundation Work, which reduced amount shall, subject to potential use thereof to pay for certain costs of Differing Site Conditions (i.e., Reimbursable Site Work), be deposited in a special account with the Trustee for use under the exclusive control and direction of Department;

(v) recourse solely to the Association for payment, but only to the extent of funds available under the Indenture or SIB Loan Agreement to pay Costs of the Project, except for Discretionary Directed Changes;

(vi) the right and obligation to obtain all Regulatory Approvals required to construct the Project and to open it for normal revenue operation;

(vii) the right and obligation to perform right of way acquisition and utility relocation services, including acquiring Project Right of Way in the name of the Department;

(viii) the obligation to post a payment bond and deliver performance bonds from each first tier construction subcontractor;

(ix) the obligation to complete the Project no more than 45 months after the Financial Closing Date or to pay liquidated damages for every day completion and Final Acceptance of the Project is delayed, subject to extension due to

Force Majeure, Department-Caused Delays and certain Differing Site Conditions and to specified caps on liquidated damages;

(x) the right to receive a bonus if the Project is completed and accepted less than 42 months (as the same may be extended by reason of Discretionary Directed Changes pursuant to Section 19.3.4 of the Design-Build Contract) after the Financial Closing Date, in the amount of 70% of the excess, if any, of Toll Revenues earned over Current Expenses incurred during a period which (A) is equal in length to the period between the date of Substantial Completion and the date which is 42 months (as the same may be extended by reason of Discretionary Directed Changes pursuant to Section 19.3.4 of the Design-Build Contract) after the Financial Closing Date and (B) begins on the date tolling of traffic on the Project commences;

(xi) the obligation to satisfy and to carry out Department standards, Department-approved preliminary design and specifications for the Project and applicable Laws, Ordinances and Regulations;

(xii) the obligation to provide specified warranties against design and construction defects;

(xiii) the obligation to insure the Project as and when provided in the Design-Build Contract;

(xiv) the right to receive no more than $1.5 million, from SIB Loan proceeds, for design and other non-construction work on the Project between January 31, 1998 and the Financial Closing Date or any earlier date the Department terminates the Project Agreements; and

(xv) the right to enter onto the Project Right of Way as reasonably necessary to carry out the Work.

(c) Completion Guaranty. Concurrently with execution of this Agreement, FC, MKC (Delaware) and MKC (Ohio) are executing and delivering the Completion Guaranty, in the form attached to this Agreement as **Exhibit D**, under which they will jointly and severally give the guarantees described in **Section 3.2(e)(vii)**.

(d) Project Financing Agreement. Concurrently with execution of this Agreement, FD/MK, the Association and the Department are entering into the Project Financing Agreement, in the form attached to this Agreement as **Exhibit E**, under which:

(i) the Association agrees to execute the Indenture and issue the initial Series of Bonds on the Financial Closing Date upon satisfaction of the conditions precedent set forth in **Section 6.2(e)**;

(ii) the Association agrees, after issuance of such Bonds, to pay for the costs of developing and constructing the Project (but only to the extent of funds available under the Indenture or SIB Loan to pay such costs);

(iii) the Association agrees to promote, market and advertise the Project prior to the Opening Date, to the extent of funds available to pay for the same;

(iv) the Association agrees to perform, and assumes, all obligations of the operator under the PPTA and of the Operator under this Agreement, effective as of the Transition Date; and

(v) FD/MK irrevocably assigns to the Association, effective as of the Transition Date, all of the right, title and interest of FD/MK as the operator under the PPTA and as Operator under this Agreement (but not FD/MK's rights under the Design-Build Contract).

(vi) the Department assigns to the Association its rights to liquidated damages payable by FD/MK under Section 25.6.1.2 of the Design-Build Contract and its rights under the Design-Build Contract and the Completion Guaranty.

(vii) FD/MK indemnifies the Association and the Department, the Association indemnifies FD/MK and the Department, and the Department indemnifies FD/MK and the Association.

(e) Master Indenture and First Supplemental Indenture. On the Financial Closing Date the Association and the Trustee will enter into the Master Indenture, substantially in the form attached to this Agreement as **Exhibit F**, and the First Supplemental Indenture, substantially in the form attached to this Agreement as **Exhibit G**, pursuant to which it will be agreed, among other things, that:

(i) the Association shall issue the initial Series of Bonds;

(ii) the Association shall pay for the costs of developing and constructing the Project using proceeds of the Public Debt and the SIB Loan;

(iii) various Funds, including a construction fund, a revenue fund, a capitalized interest fund, debt service funds, debt service reserve funds, a renewal and replacement fund and a surplus fund will be established and funded;

(iv) the Trustee will be appointed as trustee for the Owners of the Bonds;

(v) the Association will collaterally assign and pledge to the Trustee all of the Trust Estate, including but not limited to the Revenues, to secure Association's obligations under the Indenture;

(vi) the Association will fix and charge tolls and user fees, and modify the same from time to time, in order to maintain the lesser of Optimum Toll Revenues or specified debt coverage ratios;

(vii) Revenues shall be used by the Trustee for specified purposes in a specified order of priority under Section 505 of the Master Indenture;

(viii) the Association shall be authorized to issue Completion Bonds under specified circumstances, having priority pari passu with the initial Senior Bonds, in order to finance completion of the Project, should proceeds of the Public Debt, the SIB Loan (excluding the portion thereof reserved to pay pre-Opening Date advertising and promotional expenses) and other funds available to pay Costs of the Project be insufficient to pay costs to complete;

(ix) the Association shall be authorized to issue Extraordinary Completion Bonds to the Department or the CTB under specified circumstances, having priority over any payment of Senior Bonds, in order to finance completion of the Project, should proceeds of the Public Debt, the SIB Loan (excluding the portion thereof reserved to pay pre-Opening Date advertising and promotional expenses) and other funds available to pay Costs of the Project be insufficient to pay costs to complete; and

(x) repayment of the Bonds shall not be an obligation of the State or any agency or instrumentality of the State.

(f) SIB Loan Agreement, SIB Loan Note and SIB Bond. Concurrently with the execution hereof, the CTB, the Association and the Trustee will enter into the SIB Loan Agreement, in the form attached to this Agreement as **Exhibit H**, and Association will execute and deliver the SIB Loan Note in the form attached to the SIB Loan Agreement; and on the Financial Closing Date Association will execute and deliver the SIB Bond, in the form of the Series D Bond attached to the First Supplemental Indenture, under which:

(i) subject to satisfaction of specified conditions precedent, the CTB authorized a loan to be made to the Association from funds deposited in the Federal Subaccount of the Toll Facilities Revolving Account in the Transportation Trust Fund in an amount not to exceed $18 million;

(ii) the SIB Loan proceeds are to be used to pay only the costs of Right of Way acquisition, utility relocation, design and engineering of the Project and other Non-Construction Costs approved by Department, but to no purpose which would cause the Project to be subject to requirements applicable to Federal-aid construction contracts under U.S.C. Title 23; and

(iii) the Association agrees to repay the SIB Loan, with interest, from the sources, in the amounts and at the times specified in the SIB Bond and the Master Indenture.

(g) Contractor Loan Agreement, Contractor Bond and Guaranty of Contractor Loan Agreement. On the Financial Closing Date FD/MK, the Trustee and the Association will enter into the Contractor Loan Agreement, in the form attached to this Agreement as **Exhibit I**, Association will execute and deliver the Contractor Bond in the form of the Series E Bond attached to the First Supplemental Indenture, and FC, MKC (Delaware) and MKC (Ohio) will issue the Guaranty of Contractor Loan Agreement, in the form attached to this Agreement as **Exhibit J**, under which:

(i) FD/MK shall establish a $5 million revolving line of credit for the Association for a ten-year period beginning upon the first to occur of the Guaranteed Completion Date (without regard to any extensions thereof under the Design-Build Contract), the Opening Date or the Final Acceptance Date;

(ii) the Trustee has the right to draw upon the line of credit to pay Debt Service on Senior Bonds and First Tier Subordinate Bonds whenever funds available for such purpose under the Master Indenture are insufficient to pay such Debt Service;

(iii) the Association agrees to repay draws on the line of credit, with interest, out of Revenues, pro rata with amounts due on, and at the same level of priority as, the SIB Bond and Department's unreimbursed advances of Current Expenses;

(iv) FC, MKC (Delaware) and MKC (Ohio) shall jointly and severally guarantee payment and performance of all FD/MK's obligations under the Contractor Loan Agreement; and

(v) neither the State nor any agency or instrumentality of the State has any obligation to repay the Contractor Bond.

(h) Memorandum and Assignment. On the Financial Closing Date the Department, FD/MK, the Association and the Trustee will enter into, and FD/MK shall cause to be recorded in the land records of Henrico and Chesterfield Counties and the City of Richmond, the Memorandum and Assignment in the form attached to this Agreement as **Exhibit K**, under which:

(i) solely as a precautionary matter, record notice will be provided to third parties of this Agreement and the rights created hereunder;

(ii) solely as a precautionary matter, record notice will be provided to third parties of the collateral assignment by the Association to third parties of Association's interests in the Trust Estate; and

(iii) FD/MK and the Association will irrevocably and absolutely assign to the Department all of their respective right, title, interest and estate in and to

the Toll Revenues, subject to the lien of the Indenture; and solely as a precautionary matter record notice of such assignment will be provided to third parties.

Section 3.4. Nature of Parties' Interests Under Certain Project Agreements. The Department and the Operator intend and agree that:

(a) The Operator has no fee title, leasehold estate, easement or other real property interest of any kind in or to the Project or the Project Right of Way by virtue of this Agreement, any of the other Project Agreements or otherwise;

(b) The Operator's property interests under this Agreement are limited to contract rights constituting intangible personal property (and not real estate interests), including without limitation Operator's right, in accordance with the provisions of this Agreement, to impose, collect and enforce payment of Toll Revenues (collectively the "Toll Servicing Rights");

(c) The Department will be the sole owner of fee simple title to the Project and the Project Right of Way and all improvements constructed, all tangible personal property installed, and all Intellectual Property procured pursuant to the Design-Build Contract or otherwise in connection with the Project, with full power and authority to possess, control and utilize the Project and Project Right of Way, subject only to the terms and conditions of the Project Agreements;

(d) Pursuant to the Master Indenture, the Association (and by its joinder therein, FD/MK) will grant a security interest in and a lien on the Trust Estate, including without limitation the Toll Revenues, in favor of the Trustee as security for the Bond Owners;

(e) Immediately after execution and delivery of the Master Indenture and the First Supplemental Indenture, FD/MK and the Association will absolutely assign and transfer all their right, title, interest and estate in and to the Toll Revenues to the Department, subject to the lien of the Indenture, in accordance with the provisions of the Memorandum and Assignment;

(f) The Association will retain the Toll Servicing Rights (and the duties relating thereto) but will grant a security interest therein to the Trustee, as part of the Trust Estate, as security for the Bonds, and will delegate to the Department certain duties relating to the Toll Servicing Rights as set forth in **Section 8.3**; and

(g) Insofar as the Association is obligated to remit and account for Toll Revenues, furnish reports and perform other similar obligations under this Agreement with respect to the Toll Servicing Rights or otherwise, the Association is acting as a collection agent and servicer for the Department as owner and for the Trustee as pledgee of the Toll Revenues.

Section 3.5. FD/MK Development Fee. FD/MK shall have the right to receive a development fee of $6 million, payable solely out of proceeds of the Public Debt, with payment contingent upon issuance of the Bonds, in consideration for services rendered and risks undertaken respecting the Project prior to issuance of the Bonds. FD/MK shall have no right to any other consideration or compensation on account of risks undertaken, work performed or services rendered prior to the Agreement Date, except for payment of up to $1.5 million for certain design and engineering work undertaken prior to the Agreement Date but after January 30, 1998. If for any reason this Agreement is terminated due to non-satisfaction of any condition precedent to issuance of the Bonds, FD/MK shall have no right or claim to any consideration or compensation whatsoever respecting the Project, except for up to $1.5 million for design and engineering work FD/MK has performed or performs between January 30, 1998 and the date of termination, as more particularly provided in Section 3.1 of the Design-Build Contract.

Section 3.6. Right to Cross Navigable Water Courses. Subject to Laws, Regulations and Ordinances and other requirements set forth in this Agreement, FD/MK and Association shall have the right to construct and operate the Project across any canal or navigable water course so long as the crossing does not unreasonably interfere with then current navigation and use of the waterway.

ARTICLE IV

TOLLING OF PROJECT

Section 4.1. Right to Charge Tolls.

(a) Subject to the limitations and conditions set forth in this **Section 4.1** and otherwise in this Agreement, the Department grants Operator the exclusive right to charge tolls for the use of the Project from and after the Opening Date and until expiration or earlier termination of the Term.

(b) Operator's rights granted in **subsection (a)** above are limited by, and conditioned on, among other provisions in this Agreement, the following:

(i) The initial toll rates, for the first two year period after the Opening Date, shall be as set forth in **Exhibit L** hereto, provided that the Operator may, with the consent of the Department, and shall, at the option and direction of the Department, operate the Project without charging user fees and tolls for vehicles using the Project for up to 60 days after the Opening Date;

(ii) Operator shall make a schedule of the current tolls available to any member of the public upon request;

(iii) the toll rates shall be the same for persons using the Project under like conditions, and for this purpose "like conditions" may take into consideration type, weight and occupancy of the vehicle, number of axles, time of travel, traffic congestion and other traffic conditions and type of facilities; and

(iv) no tolls or user fees may be imposed at any locations other than the tolling facilities set forth in the approved Plans and Specifications, unless additional locations are approved by the Department in its sole discretion.

Section 4.2. Rate Covenant. Operator shall fix, charge and collect user fees and tolls for vehicles using the Project in accordance with the rate covenant set forth in Section 717 of the Master Indenture, which is incorporated herein by reference and made a part hereof automatically upon execution and delivery of the Master Indenture. Department is an intended beneficiary of, and shall have the right to enforce, such rate covenant.

Section 4.3. Change in User Classifications and Categories.

(a) Operator may not change the classifications or categories of users of the Project for purposes of determining user fees or tolls without Department's express prior written consent pursuant to this **Section 4.3**.

(b) If Operator desires to change classifications or categories of users of the Project for purposes of determining user fees or tolls, then Operator shall apply to the Department for permission to implement such change at least 210 Days prior to the proposed effective date of such change. Such application shall set forth:

(i) the change in classification or category requested,

(ii) the date such change shall become effective,

(iii) the length of time such change shall be in effect,

(iv) the reason Operator requests such change,

(v) the effect such change is likely to have upon Toll Revenues and availability thereof for the purposes set forth in Section 505 of the Master Indenture,

(vi) the effect such change is likely to have upon users and traffic patterns,

(vii) a proposed schedule of user fees reflecting such change, and

(viii) such other information and data as the Department may request.

(c) Operator's application shall be deemed granted without conditions unless within 180 Days after receipt of a completed application the Department advises Operator that it has granted Operator's application with conditions or denied Operator's application. The Department shall not deny an application or impose conditions unless the Department finds that the proposals set forth in the application are not reasonable under the circumstances, the supporting documentation is in error or is insufficient to support the proposal or that the assumptions of projections set forth in the application are unrealistic. If the Department makes such a finding the Operator may modify its application, supporting documentation and/or projections and resubmit the same to the Department or appeal the Department's decision pursuant to the dispute resolution procedures set forth in **Section 17.7**. If Operator resubmits an application as aforesaid, the above procedures shall apply to the resubmitted application. If Operator's application is deemed granted without conditions or is granted subject to conditions acceptable to Operator, Operator may implement such change in user classification or category on the effective date set forth in the application, subject to such conditions, if any, imposed by the Department.

Section 4.4. Additional Provisions Respecting Tolls.

(a) Department shall have the right to require Operator to revise the tolls, alter its methods of operation, change classifications or categories of users for purpose of determining user fees or tolls, or take such other action as Department deems appropriate; provided that the Department shall have no right to require toll rates that would materially discourage use of the Project or any action inconsistent with the provisions of **Sections 4.1(b)(iii) and (iv)**, with the minimum toll levels required under Section 717 of the Master Indenture or with actions the Operator is required to implement pursuant to Section 717 of the Master Indenture.

(b) The Operator acknowledges and agrees that it shall not be entitled to receive any compensation, return on investment or other profit for providing the services contemplated by this Agreement and the other Project Agreements to which the Operator is a party other than (i) the development fee set forth in **Section 3.5**, (ii) the amounts payable to FD/MK under the Design-Build Contract, and (iii) interest at the rate set forth in the Contractor Bond. The parties acknowledge that each of this Agreement, the Design-Build Contract, the Contractor Loan Agreement and the Contractor Bond were negotiated in good faith and at arms-length, contain commercially reasonable provisions and allow FD/MK no more than a reasonable rate of return and compensation commensurate with risk. As provided in Section 56-566 of the PPTA, the execution of this Agreement constitutes conclusive evidence that the tolls established pursuant to this Agreement and Section 717 of the Master Indenture comply with the PPTA and do not materially discourage use of the Project.

(c) Nothing in this Agreement, and nothing in the Indenture, shall obligate or be construed as obligating the Department to continue or cease tolls after all Bonds issued under the Master Indenture or any Supplemental Indenture (including the Contractor Bond) have been paid in full or provisions for payment has been made and the lien of the Indenture discharged in accordance with the terms of Article VIII of the Master Indenture.

ARTICLE V

REGULATORY APPROVALS

Section 5.1. Operator Obligation to Obtain Regulatory Approvals.

(a) FD/MK shall obtain Regulatory Approvals in accordance with the terms, conditions, standards and schedule set forth in the Design-Build Contract. Association shall have no responsibility for securing any such Regulatory Approvals.

(b) Throughout the operation of the Project or any portion thereof the Operator shall keep in effect and maintain all Regulatory Approvals necessary therefor, subject to the delegation to Department of certain responsibilities regarding such Regulatory Approvals as set forth in **Section 8.3(a)(v)**.

(c) In the event Association undertakes, at the direction of the Department, Project Enhancements, Compliance Order work or improvements respecting Reserved Rights, Association shall obtain all Regulatory Approvals required in connection with the Project Enhancements.

(d) The Operator shall pay all charges and fees incident to obtaining Regulatory Approvals from funds available for such purpose under this Agreement, the Indenture and the SIB Loan Agreement.

Section 5.2. NEPA Compliance. The parties acknowledge that the EIS has been obtained and a record of decision issued for the Project.

Section 5.3. Federal Interstate Designation. After the Opening Date the Department may, but is not obligated to, seek and obtain designation of the Project as a federal interstate highway, provided that the Trustee, Department and Association first receive an opinion of legal counsel satisfactory to each of them to the effect that such designation will not adversely affect the right and authority of the Association to collect tolls in accordance with **Article IV** or conflict with the terms of this Agreement.

ARTICLE VI

FINANCING OF PROJECT

Section 6.1. Bond Financing; Issuance of Bonds.

(a) Concurrently with the execution of this Agreement, the Department, FD/MK and the Association are executing and delivering the Project Financing Agreement, in the form attached to this Agreement as **Exhibit E**. The Project Financing Agreement may be amended only with the written agreement of the parties thereto.

(b) When all conditions precedent set forth in **Section 6.2(e)** are satisfied or waived in writing, FD/MK shall cause the Association to issue the Bonds as provided by the Master Indenture, the First Supplemental Indenture, the SIB Loan Agreement and the Contractor Loan Agreement. FD/MK also shall cause the Association to pledge and collaterally assign the Trust Estate to the Trustee, as set forth in the Master Indenture and the First Supplemental Indenture. FD/MK shall cause the Association and Trustee to execute and deliver the Master Indenture, First Supplemental Indenture and Memorandum and Assignment, and the Association to execute and deliver all other Project Agreements to which it is a party and not previously entered into, on the Financial Closing Date. The Master Indenture and First Supplemental Indenture shall be substantially in the form attached to this Agreement as **Exhibits F and G**, respectively. The Memorandum and Assignment shall be in the form attached to this Agreement as **Exhibit K**. Any and all changes to such forms, shall require the prior written approval of the Department in its sole and absolute discretion.

(c) Each of FD/MK and Department agrees to cooperate with the Association regarding Association's responsibilities under Rule 15c2-12 by providing information and documents available to it pertaining to the Project and Project Right of Way. FD/MK also shall provide requested information on the management, experience and financial condition of itself and its members, FC and MKC (Ohio)and of MKC (Delaware).

(d) FD/MK shall cause to be provided to the Department a complete transcript of all documents executed and delivered in connection with the issuance of the Bonds promptly following the Financial Closing Date.

Section 6.2. Department Authorization of Bonds and Lien; Conditions Precedent.

(a) To the extent required by Section 103 of the Internal Revenue Code, Revenue Ruling 63-20 and Revenue Procedure 82-26, and subject to satisfaction of all the conditions precedent set forth in **subsection (e)** below,

Department, acting in its capacity as a department of the executive branch of the State and pursuant to its authority as the Responsible Public Entity with respect to the Project under the PPTA, hereby approves and authorizes:

(i) the creation of the Association as a Virginia nonstock, nonprofit corporation, for the purposes contemplated by the forms of Articles of Incorporation and Bylaws therefor attached to this Agreement as **Exhibit M**; and

(ii) the issuance of the Bonds (including the SIB Bond and Contractor Bond) by the Association on the terms and subject to the conditions set forth in the Master Indenture, the First Supplemental Indenture, the SIB Loan Agreement and the Contractor Loan Agreement.

(b) Department agrees that the Association shall have the right to pledge and collaterally assign to the Trustee the Trust Estate as security for the Bonds and for payment of the items, and in the order of priority, set forth in Sections 505 of the Master Indenture or any amendment thereto which the Department may approve in writing in its sole discretion.

(c) The Bonds shall be issued in the name of the Association "on behalf of" the State acting through the Department in its capacity as a department of the executive branch of the State (within the meaning of the phrase "on behalf of", as it is used for federal income tax purposes).

(d) The Department may participate in the development of the documents relating to the issuance of the Public Debt and such participation may include its advisors, bond counsel, and financial advisors. The Costs of Issuance of the Public Debt and the pricing of the Public Debt shall be subject to the approval of the Department in its sole good faith discretion. All formal or scheduled communications with rating agencies and/or bond insurers in connection with the issuance of the Public Debt shall be coordinated with the Department, and meetings with rating agencies may be scheduled upon reasonable notice (one to two weeks) to the Department.

(e) The Association shall not issue, and FD/MK shall cause the Association to refrain from issuing, the Bonds (including the SIB Bond and the Contractor Bond) until all the following conditions precedent are satisfied:

(i) the Department has received evidence acceptable to the Department in its sole good faith discretion that the total proceeds of the Public Debt, net of Costs of Issuance (in amounts approved by Department in its sole good faith discretion) and reserve accounts and other reserves to be funded with Public Debt proceeds, together with the funding the Department is to provide under the SIB Loan Agreement, are sufficient to pay in full all Costs of the Project, including but not limited to the amount of the Contingency established under the Design-Build Contract and, to the extent eligible for payment from proceeds of Tax-Exempt Bonds or the SIB Loan, reasonable amounts for Association's or Department's pre-Opening Date promotion

and public announcements of the Project and Association's Current Expenses incurred during the period prior to the Opening Date;

(ii) the Toll Consultant delivers to the Department, Operator, Bond Counsel and the underwriter of the Public Debt not earlier than ten nor later than two Days prior to the delivery of the preliminary official statement respecting the Public Debt, a written certification, in form and content satisfactory to each of the recipients, to the effect that (A) attached to the certification is a true and complete copy of the Traffic and Revenue Study, and (B) there has occurred no event or circumstance which would cause the Toll Consultant to revise its opinions, analyses or revenue projections set forth in the Traffic and Revenue Study (including all restatements, amendments and supplements);

(iii) the Association and FD/MK secure an investment grade rating on a minimum of 80% of the aggregate Public Debt from at least two of Fitch, Moody's and S&P, provided that if such ratings are not secured, the Department, Association, FD/MK and the underwriters shall jointly confer and the Department may, in its sole discretion, but is not obligated to, agree that this condition precedent has been satisfied if (A) at least 60% of the aggregate Public Debt is rated investment grade by one of either Fitch, Moody's or S&P and (B) the aggregate "true" interest cost of the Public Debt does not exceed 6.5% per annum, taking into account original issue discount or premium, if any;

(iv) from the Agreement Date to the Financial Closing Date there has occurred no change in the financial condition of FD/MK, FC or MKC (Delaware) which would materially adversely affect the ability of any of them to diligently and efficiently perform their respective obligations under this Agreement and the other Project Agreements to which they are parties;

(v) all Project Agreements have been duly executed and, where appropriate, acknowledged by all parties thereto and have been delivered by such parties or will be delivered by such parties concurrently with issuance of the Bonds, and the Memorandum and Assignment has been duly recorded in the land records of the Counties of Henrico and Chesterfield and the City of Richmond;

(vi) the Association shall have obtained (A) written confirmation of an Authorized Department Representative that the Department has approved, in its sole good faith discretion, the form and content of all documents pertaining to issuance of the Bonds (other than disclosure documentation), including but not limited to the Master Indenture, Supplemental Indentures, bond purchase agreement, certificates of authority, opinions of Bond counsel and an investment agreement with the Trustee, and (B) Department's acquiescence to distribution of disclosure documentation pertaining to issuance of the Bonds; and all such documents have been or concurrently with issuance of the Bonds will be executed and delivered by the appropriate parties thereto;

(vii) Williams, Mullen, Christian and Dobbins, special Virginia counsel to FD/MK, has issued an opinion for the benefit of and in form and substance satisfactory to the Trustee and the Department to the effect that FD/MK (A) has the authority to construct and operate the Project; (B) has full right and lawful authority to enter into and perform the Project Agreements to which it is a party; and (C) has taken all action necessary to execute and deliver the Project Agreements to which it is a party;

(viii) Williams, Mullen, Christian and Dobbins, counsel to the Association, has issued an opinion for the benefit of and in form and substance satisfactory to the Trustee and the Department to the effect that the Association (A) has the authority to issue the Bonds and the Contractor Bond and operate the Project; (B) has full right and lawful authority to enter into and perform the Project Agreements to which it is a party; and (C) has taken all corporate action necessary to execute and deliver the Project Agreements to which it is a party;

(ix) in-house counsel to each of FC, MKC (Delaware) and MKC (Ohio) has issued an opinion for the benefit of and in form and substance satisfactory to the Trustee and the Department to the effect that each such corporation (A) has full right and lawful authority to enter into and perform the Completion Guaranty and the Guaranty of Contractor Loan Agreement and (B) has taken all action necessary to execute and deliver each such Guaranty;

(x) Hunton & Williams, as Bond Counsel, has issued an opinion for the benefit of and in form and substance satisfactory to the Trustee and the Department to the effect that the issuance of the Public Debt has been duly authorized and that the interest on the Public Debt is not includable in gross income for Federal income tax purposes under existing law and is exempt from taxation by the Commonwealth of Virginia;

(xi) Ballard Spahr Andrews & Ingersoll, LLP as counsel to Bear, Stearns & Co., Inc., Lehman Brothers and First Union Capital Markets, the underwriter, has issued an opinion for the benefit of the underwriter respecting the offering documents and to the effect that the issuance of the Public Debt is exempt from registration under the Securities Act of 1933 and exempt from qualification under the Trust Indenture Act of 1939;

(xii) each of the Department, Trustee, FD/MK, Association, CTB and the underwriter receive all other opinions of legal counsel and/or reliance letters which are required under any other Project Agreement on or prior to the Financial Closing Date or which are usual and customary in connection with bond financings of the type contemplated, in form and substance reasonably satisfactory to each of them;

(xiii) FD/MK has obtained all Regulatory Approvals required to construct, equip and install the Project and to open it for normal revenue operation, including but not limited to a section 404 permit from the U.S. Army Corps of Engineers,

subject to any exceptions permitted under Sections 10.2.1(a) and (b) of the Design-Build Contract.

(xiv) all representations and warranties of FD/MK and Association set forth in this Agreement, the Design-Build Contract and the Project Financing Agreement shall be true and correct on the scheduled date of financial closing as if made on such date;

(xv) the remaining proceeds of the SIB Loan have been simultaneously transferred to the Trustee pursuant to Section 3.4(b) of the SIB Loan Agreement;

(xvi) FD/MK shall not then be in receipt of any notice of default from the Department unless any such noticed default has been cured; and

(xvii) no litigation, arbitration or judicial or administrative proceeding is pending or threatened which does or could materially and adversely affect (A) the Project or its design, permitting, financing, construction, tolling, management or operation, or (B) the financial ability or creditworthiness of FD/MK, FC, MKC (Delaware) or MKC (Ohio) or (C) the right of Department and CTB to enter into and perform the Project Agreements, including the right of the CTB to undertake and perform its obligations under the SIB Loan Agreement without conditioning such obligations on appropriations or (D) the timely performance of the obligations of any party to this Agreement or the other Project Agreements.

(f) All the conditions precedent set forth in **subsection (e)** above are for the benefit of Department and FD/MK, except that the conditions precedent set forth in **subsections (e)(iv), (vii), (ix), (xiv), (xvi) and (xvii)(B)** above are for the sole benefit of Department. A benefited party may waive any condition precedent to the extent it benefits such party; provided, however, that no person or entity shall be entitled to assume that a benefited party will waive or refuse to waive any condition precedent in the absence of strict compliance therewith. No waiver of any condition precedent shall be enforceable unless in writing signed by each benefited party. Unless Department waives a condition precedent which requires action by FD/MK to be satisfied, FD/MK shall remain bound to use diligent efforts to satisfy the condition precedent. Department's approval to proceed with issuance of the Bonds shall not constitute a waiver by Department of any then-existing FD/MK Default or Association Default.

Section 6.3. No Department Liability for Bonds.

(a) The Department's approval of the issuance of the Bonds and of the documents pertaining to the Bonds shall not be construed as a guarantee or endorsement of the Bonds or the Traffic and Revenue Study or any representation, warranty or other assurance as to the ability of the Association to perform its obligations with respect to the Bonds or the adequacy of the Toll Revenues to provide

for payment of the Bonds. Each Bond (including the Contractor Bond) shall include a conspicuous recital on its face to the effect that payment of the principal of and interest on that Bond (including the Contractor Bond) shall be a valid claim only as against the Association and the Revenues pledged by the Association therefor, shall not be an obligation of the State, the Department, CTB or any other agency, instrumentality or political subdivision of the State, moral or otherwise, and that neither the full faith and credit nor the taxing power of the State, the Department, CTB or any other agency, instrumentality or political subdivision of the State is pledged to the payment of the principal of and interest on the Bonds (including the Contractor Bond).

(b) Except as provided in **Section 17.9(b)** (to the extent applicable), none of the State, the Department, CTB or any other agency, instrumentality or political subdivision of the State shall have any obligation to pay Debt Service.

(c) Notwithstanding anything else to the contrary contained herein, neither the Department nor any other public entity shall be required by this Agreement or otherwise to continue or to cease toll collection on the Project after the expiration of the Term; provided that in the case of early termination by the Department under **Section 16.2(a)(ii) or (iii) or 16.3(b)**, Department shall comply with the provisions of **Sections 16.2(c) and (d)**.

Section 6.4. Reserved.

Section 6.5. State Financial Participation.

(a) Subject to satisfaction of all conditions precedent set forth in **Section 6.2(e)** and in the SIB Loan Agreement, Department shall request that the CTB authorize payment for a portion of the Non-Construction Costs as provided in the SIB Loan Agreement. The CTB, the Association and the Trustee shall execute and deliver the SIB Loan Agreement, and FD/MK shall cause the Association to execute and deliver the SIB Loan Note on the date of execution of the SIB Loan Agreement, and the SIB Bond on the Financial Closing Date. The SIB Loan Agreement and the SIB Loan Note shall be in the form attached to this Agreement as **Exhibit G** and the SIB Bond shall be in the form of the Series D Bond attached to the First Supplemental Indenture. The SIB Loan Agreement, SIB Loan Note and SIB Bond may be amended only with the written agreement of the parties thereto.

(b) The Department has paid for or shall pay for the costs of Preliminary Engineering performed prior to January 31, 1998 under contracts with the Department. Such funding shall bear interest at the same rate as provided for the SIB Loan, commencing on the Agreement Date, and shall be repayable in full by Association from Revenues available for such purpose under item Tenth of subsection 1 of Section 505 of the Master Indenture.

(c) Notwithstanding anything to the contrary contained herein or in any other Project Agreement, in the event Public Debt proceeds, SIB Loan proceeds

(excluding those reserved pursuant to the SIB Loan Agreement to pay pre-Opening Date advertising and promotional expenses), proceeds from Completion Bonds, any applicable insurance proceeds and any other Funds available for Costs of the Project are insufficient to pay all Costs of the Project (other than Discretionary Directed Changes), Department, to the extent consistent with Laws, Regulations and Ordinances, shall have the right, but not the obligation, to advance or to cause the CTB to advance additional funds to pay some or all of such Costs of the Project. If the Department makes such election, then the Association shall issue to Department and/or CTB (if it is the source of additional funds), and shall cause the Trustee to authenticate, Extraordinary Completion Bonds pursuant to subsection 2 of Section 720 of the Master Indenture. All additional advances made pursuant to this **subsection (c)** shall bear interest at the same rate as provided for the SIB Loan, and, as more particularly set forth in subsection 3 of Section 505 of the Master Indenture, shall receive priority for repayment of principal and accrued interest senior and superior to the priorities under subsection 1 of Section 505 of the Master Indenture. In the event the Department pays costs of Discretionary Directed Changes from its own funds, such payments shall bear interest from the date or dates advanced at the same rate as provided for the SIB Loan, and such payments and accrued interest shall be repayable in full by Association from Revenues available for such purpose under item Tenth of subsection 1 of Section 505 of the Master Indenture, except to the extent reimbursed from sources described in **Section 9.2(a)**.

(d) Subject to appropriation and availability of sufficient funds, Department shall in each Fiscal Year during the Term (i) include in its budgets funds in an amount Department estimates will be needed to (A) perform the responsibilities delegated to Department under **Section 8.3** to the standards set forth in **Section 8.3** and (B) pay, when required and without offset, the excess, if any, of estimated Current Expenses (other than those covered pursuant to item (A) above) or estimated costs of Extraordinary Maintenance and Repair (other than those covered pursuant to item (A) above) for the Fiscal Year in question over the estimated amount of Revenues which will be available during such Fiscal Year for such purposes under Section 505 of the Master Indenture (and any amendments thereto which Department approves in its sole discretion), and (ii) advance funds to pay, when required and without offset, such Current Expenses and such costs of Extraordinary Maintenance and Repair, if and to the extent necessary after application of funds as set forth in **Section 8.4(a)**. Department agrees and acknowledges that the foregoing obligations (I) shall continue in effect throughout the Term regardless of any circumstance, event or occurrence, such as but not limited to an FD/MK Default, an Association Default, a default by any other party to the Project Agreements, bankruptcy or insolvency of any party to the Project Agreements and occurrence of any force majeure event, (II) are subject to no conditions or exceptions other than annual appropriation and availability of sufficient funds and (III) are intended for the benefit of, and are enforceable by, Operator and the Trustee.

(e) Notwithstanding anything to the contrary contained herein, Department shall have the right to direct Association to redeem or defease Bonds in whole or in part pursuant to any optional redemption or defeasance provisions and procedures set forth in the Indenture, to the extent Department provides funds for such purpose. Association shall promptly comply with any such direction. No such funding by Department shall constitute a termination for public convenience under **Section 16.2** unless Department also gives written notice that it is exercising its right of termination for public convenience. Operator acknowledges that Department may exercise its rights under this **subsection (e)** in conjunction with exercising its right to reduce toll rates and charges under **Section 4.4(a)**.

Section 6.6. Assignment and Use of Revenues.

(a) On the Financial Closing Date, Association and FD/MK shall irrevocably and absolutely assign to the Department all of their respective right, title, interest and estate in and to the Toll Revenues, subject to the lien of the Indenture, pursuant to the Memorandum and Assignment.

(b) The Operator shall remit any Toll Revenues it receives to the Trustee for deposit into the Revenue Fund according to the procedures set forth in the Master Indenture.

(c) Amounts in the Revenue Fund shall be applied for the purposes and in the priority set forth in Section 505 of the Master Indenture or any amendment thereto which the Department may approve in writing in its sole discretion.

Section 6.7. Modifications to Use of Funds if Required in Connection with Public Debt. Department and FD/MK acknowledge that, in connection with the issuance of Public Debt, it may be necessary to revise the priorities of application of Funds set forth in Section 505 of the Master Indenture in order to satisfy the reasonable requirements of rating agencies, the underwriter, bond counsel and the provider of any credit enhancement. If so, Department and FD/MK will negotiate in good faith to revise such priorities; provided, however, that all cash and assets under the Indenture remaining upon (a) payment or defeasance of all Bonds, other than cash and assets held irrevocably for the defeasance of Bonds, and (b) payment of any other obligations of Association payable from the flow of funds set forth in Section 505 of the Master Indenture, shall be distributed to Department.

Section 6.8. Reserve Accounts.

(a) In accordance with the Master Indenture and any Supplemental Indenture or amendments thereto which the Department approves in its sole discretion, the Association shall establish with the Trustee, and the Association shall fund and continually maintain, reserve accounts consisting of (i) a Debt Service Reserve Fund, (ii) a Renewal and Replacement Fund and (iii) all other reserve accounts required thereunder. The Association and the Trustee shall fund, use and apply such reserve

accounts, and any investment earnings thereunder, as and when set forth in the Master Indenture and any Supplemental Indenture or amendments thereto which the Department approves in its sole discretion.

(b) Upon the full satisfaction or defeasance of the Bonds, payment of or provision for all other obligations of Association payable from the flow of funds under Section 505 of the Master Indenture and discharge of the lien of the Master Indenture in accordance with Article VIII thereof, any funds remaining in the reserve accounts under the Indenture shall be distributed to the Department; provided that the foregoing does not prevent use of reserve accounts to effect a full defeasance of the Bonds, if permitted under the terms of the Indenture or otherwise approved in writing by the Department in its sole discretion.

ARTICLE VII

DESIGN, ACQUISITION AND CONSTRUCTION

Section 7.1. FD/MK Obligation to Design.

(a) FD/MK shall design the Project in accordance with the terms, conditions, standards and schedule set forth in the Design-Build Contract.

(b) The Department has heretofore terminated the contracts under which the Preliminary Engineering was carried out. FD/MK shall have the right to rehire such contractors under new subcontracts with FD/MK.

Section 7.2. FD/MK Obligation to Construct.

(a) FD/MK shall construct the Project in accordance with the terms, conditions, standards, requirements and schedule set forth in or provided by the Design-Build Contract.

(b) FD/MK shall not commence construction within a Construction Segment until all conditions precedent thereto, as set forth in the Design-Build Contract, have been satisfied and the Department issues a notice to proceed.

Section 7.3. Right of Way Acquisition. FD/MK shall cause the acquisition of the Project Right of Way and the relocation of Utilities in accordance with the provisions of the Design-Build Contract.

Section 7.4. FD/MK Draws.

(a) FD/MK shall have no right to any draws for payment of costs, whether from Bond proceeds or any other source, until all conditions precedent to such draws, as set forth in the Design-Build Contract, have been satisfied.

(b) FD/MK shall have no right to any draws aggregating in excess of $1.5 million for payment of design (or any other) costs unless and until the Financial Closing Date occurs.

(c) No draws from the Trustee for design, permitting, Project Right of Way acquisition, Utility relocation, construction or any other Work shall be permitted or valid unless and until the Department has issued its written approval and authorization of the draw request by signing a requisition in the form attached to the Master Indenture, appropriately completed.

ARTICLE VIII

PROJECT MANAGEMENT

Section 8.1. Conditions Precedent to Notice to Proceed with Operations.

(a) The Department shall not be obligated to issue a notice to proceed with the opening of the Project for regular public use, and the Operator shall not open the Project for such use, until all the following conditions precedent are satisfied:

(i) Department has issued its Certificate of Substantial Completion under **Section 17.3.2** of the Design-Build Contract;

(ii) except as provided otherwise in Sections 10.2.1(a) and (b) of the Design-Build Contract, FD/MK shall have obtained all Regulatory Approvals necessary to operate the Project and shall have satisfied all conditions and requirements thereof which must be satisfied before the Project can be lawfully opened for regular public use;

(iii) all insurance policies required under this Agreement have been obtained and shall be in full force and effect and the Department has received the originals thereof (or, if the Trustee requires possession of the originals, then certified correct and complete copies thereof together with certificates of insurance);

(iv) neither FD/MK nor the Association shall then be in receipt of any notice of default from the Department under this Agreement unless any such noticed default has been cured or FD/MK, the Association or Trustee, as applicable, is in the process of making diligent efforts to cure the same;

(v) Association shall have provided the Department in writing the name(s) of the person(s) who shall act as the Authorized Association Representative for purposes of resolving issues as they arise during Project management and operation; and

(vi) all Project Agreements are in full force and effect, and no party shall be in receipt of any notice of default from the Department under any Project Agreement unless such noticed default has been cured or such party is in the process of making diligent efforts to cure the same.

(b) All the conditions precedent set forth in **subsection (a)** above are for the sole benefit of Department. The Department may waive any condition precedent; provided, however that no person or entity shall be entitled to assume that Department will waive or refuse to waive any condition precedent in the absence of strict compliance therewith. No waiver of any condition precedent shall be enforceable

unless in writing signed by Department. Unless Department waives a condition precedent which requires action by the Association or FD/MK to be satisfied, the Association and FD/MK shall remain bound to use diligent efforts to satisfy the condition precedent. Department's approval to proceed with opening of the Project shall not constitute a waiver by Department of any then-existing FD/MK Default or Association Default.

Section 8.2. Association Obligation to Manage and Operate.

(a) The Association shall, from and after the first to occur of the Opening Date or the Final Acceptance Date, continuously and diligently cause the Project to be managed and operated in accordance with all Laws, Regulations and Ordinances, all Regulatory Approvals and the terms, conditions and standards set forth in this Agreement.

(b) From and after the Opening Date, the Association shall cause the Project to be open for use by members of the public at all times, provided the applicable tolls and user fees are paid, and provided that temporary closures shall be permitted as determined by the Department.

(c) Provided sufficient funds are available to pay for the same, from and after the commencement of revenue operations on the Project, the Association shall actively promote, market and advertise the Project for the purpose of increasing the use thereof and optimizing Toll Revenues therefrom. Subject to the Department's prior written approval, the Association may engage a professional marketing and advertising firm to assist with planning and implementation of Project promotion, marketing and advertising. Budgets for promotion, marketing and advertising shall be subject to the Department's prior review and written approval, and all expenditures shall conform to the applicable approved amounts therefor as shown in each Annual Budget. The Department shall have the right to curtail or eliminate funding for promotion, marketing and advertising whenever projected or actual Toll Revenues are insufficient to pay when due Current Expenses.

(d) Provided sufficient funds are available to pay for the same on a current basis, the Association may engage private security firms or employ passive security devices or technology to protect, collect, accumulate, transfer and deposit Toll Revenues or to identify toll violators, subject to compliance with Laws, Regulations and Ordinances protecting rights of privacy.

Section 8.3. Delegation of Operations and Maintenance to Department; Department Charges.

(a) There are hereby delegated to the Department, and the Department hereby accepts delegation of, and agrees to perform, in accordance with this Agreement, all Laws, Regulations and Ordinances and all Regulatory Approvals, the following responsibilities of Association:

(i) to manage and control traffic on the Project, including but not limited to provision of incident response services, snow and ice removal and temporary partial or full closures of the Project as the Department determines to be necessary or advisable;

(ii) to maintain and repair the Project and all systems and components thereof, including but not limited to the ETTM Facilities and ETTM System, and including Extraordinary Maintenance and Repair;

(iii) to operate the ETTM Facilities and ETTM System and otherwise to carry out the collection of tolls and user fees respecting the Project;

(iv) to cause to be provided to the Project police and emergency services; and

(v) to maintain, comply with and renew Regulatory Approvals necessary and incidental to the foregoing activities.

(b) No other responsibilities of Association are delegated to or assumed by the Department. Association's non-delegated responsibilities include, but are not limited, to marketing, promotion and advertising for the Project, financial accounting and reporting responsibilities, budgeting responsibilities, and responsibilities Department may direct Association to perform pursuant to **Sections 9.1, 9.3 and 19.4** relating to Project Enhancements, Compliance Orders and improvements respecting Reserved Rights.

(c) The Department shall perform its traffic management and ordinary maintenance and repair responsibilities under **subsection (a)** above to generally the same standards it employs for comparable portions of State Highways through use of its own personnel, materials and equipment, subject to appropriation and availability of funding therefor under the Indenture and the Department's budgets.

(d) The Department shall perform its Extraordinary Maintenance and Repair responsibilities under **subsection (a)** above as, when, to the extent and by such means it determines in its good faith discretion to be necessary and feasible. The Department shall have no liability whatsoever for, and the Operator hereby releases and discharges all State Indemnitees from, any and all Claims, obligations, damages, losses, costs and expenses, including but not limited to lost Revenues, arising out of or relating to:

(i) Department's decisions regarding when or to what extent to provide or pay for Extraordinary Maintenance and Repair, provided that if the Department makes a decision not to undertake Extraordinary Maintenance and Repair without good cause at a time when it has an adequate appropriation and available funds therefor under the Indenture and the Department's budgets, then Operator may recover from Department its reasonable, direct costs and expenses incurred, up to but

not exceeding the amount of such appropriation and available funds, to perform such work of Extraordinary Maintenance and Repair;

(ii) any failure of any bridge or crossing or any structural components thereof, even if caused by inadequate Extraordinary Maintenance and Repair; and

(iii) The Department's performance of Extraordinary Maintenance and Repair work, even though such performance may interfere with toll operations.

(e) The Department shall have the right, but not the obligation, to upgrade, modify, change or replace the ETTM Facilities or ETTM System installed pursuant to the Design-Build Contract. The foregoing does not, however, preclude the Operator from undertaking such work, without cost or expense to the Department and subject to Department's approval of plans and specifications for any such upgrade, modification, change or replacement, which Department may withhold or condition in its good faith discretion. The Department shall have no liability whatsoever for, and the Operator hereby releases and discharges all Department Indemnitees from, any and all Claims, including but not limited to lost Revenues and any other indirect, incidental and consequential damages, arising out of or relating to:

(i) the Department's decisions regarding the selection of any contractor deemed qualified by the Department in its good faith discretion to perform toll collection activities, toll billing and collection methods, practices and procedures used, the lack of account anonymity, the presence or absence of compatibility or interoperability of the ETTM and AVI deployed for the Project with ETTM and AVI systems deployed elsewhere, and customer service, provided that if the Department makes decisions respecting such matters without good cause at a time when it has an adequate appropriation and available funds under the Indenture and the Department budgets to improve the efficiency or quality thereof, then Operator may recover from Department its reasonable, direct costs and expenses incurred, up to but not exceeding the amount of such appropriation and available funds, to make such improvements; or

(ii) any failure of the ETTM Facilities or the ETTM System to properly perform, provided that if the Department makes a decision without good cause not to maintain the same to generally the same standards it maintains comparable facilities, equipment and software on State Highways at a time when it has an adequate appropriation and available funds under the Indenture, applicable insurance policies, if any, and the Department's budgets to meet such standard of maintenance, then Operator may recover from Department its reasonable, direct costs and expenses incurred, up to but not exceeding the amount of such appropriation and available funds, to perform such maintenance.

(f) The Department shall cause to be performed the police and emergency services responsibilities under **subsection (a)** above to generally the same

standards it performs such functions for comparable portions of State Highways, subject to appropriation and availability of funding therefor under the Indenture and the Department's budgets. The Department shall have no obligation whatsoever to deploy police services to detect toll violations or enforce toll collections, provided that the foregoing does not preclude any qualified law enforcement agency from ticketing or arresting toll violators.

(g) The Department shall carry out its delegated responsibilities under this **Section 8.3** through one or more of the following mechanisms, as the Department selects from time to time in its sole discretion:

(i) use by the Department of its own personnel, materials and equipment;

(ii) subject to **subsection (h)** below, contracting with third parties through requests for proposals, competitive bids, negotiations or any other lawful procurement process, provided that Association receives an opinion of Bond Counsel to the effect that each such contract satisfies the requirements for a Qualified Management Contract; and

(iii) contracting with FD/MK, FC, MKC (Delaware) or an affiliate thereof on a negotiated basis, provided that Association receives an opinion of Bond Counsel to the effect that each such contract satisfies the requirements for a Qualified Management Contract.

(h) FD/MK shall have and is hereby granted a right of first negotiation with the Department for a Qualified Management Contract to perform Department's delegated responsibilities under this **Section 8.3**, subject to the following terms and conditions:

(i) such right of first negotiation shall not apply where Department seeks to contract for such responsibilities, or to add such responsibilities to an existing contract, for all State Highways or for all or substantially all the State Highways (including the Project) within the region or district of the Department in which the Project is located;

(ii) such right of first negotiation shall commence on the Agreement Date and shall expire on the first to occur of (A) expiration of the five-year warranty period under Section 11.1.2 of the Design-Build Contract or (B) termination of FD/MK's rights under this Agreement for any reason;

(iii) if at any time during the period this right of first negotiation is in effect Department desires to carry out all or any portion of its delegated responsibilities through contracting with a third party as described in **subsection (g)(ii)** above, then Department shall first deliver to FD/MK written notice of such fact and the desired scope of work;

(iv) for a period of 60 Days after the delivery of any such notice, Department and FD/MK shall engage in good faith negotiations concerning the scope of work, compensation, duration and other terms and conditions for such a contract, without obligation, however, to agree upon any particular terms or conditions;

(v) if the parties reach agreement upon such terms and conditions, then they shall execute and deliver a binding, written contract which sets forth such terms and conditions and satisfies the requirements for a Qualified Management Contract; and

(vi) upon expiration of the right of first negotiation, or upon any earlier expiration of the 60-Day negotiating period without consummation of such written contract, FD/MK shall have no further rights under this **subsection (h)**, and Department shall be free to contract with any other party on any terms and conditions, to perform all or any portion of Department's delegated responsibilities under this **Section 8.3**.

(i) Respecting responsibilities delegated to Department under this **Section 8.3**, Department shall have the right to procure the necessary scope of services in one contract or in several concurrent contracts with different contractors.

(j) The Department shall have the right and obligation to remit all the Toll Revenues it receives or its contractors receive directly to the Trustee for deposit into the Revenue Fund.

(k) For services the Department renders pursuant to this **Section 8.3** and subject to **Section 8.4(a)**, Operator shall pay the Department from funds available to it:

(i) if the services are performed using Department personnel, materials and equipment, then the sum of:

(A) an amount equal to the fully burdened hourly rate (including overhead and fringe benefits) of each employee providing such services multiplied by the actual number of hours such employee performs such services; plus

(B) the cost of all materials used, including normal wastage allowance per Department standards, and including sales taxes, freight and delivery charges and any allowable discounts; plus

(C) the use, operating, maintenance, fuel, storage and other costs of all deployed tools (excluding small tools) and equipment, calculated at hourly rates determined from the most current volume of the Rental Rate Blue Book published by Neilsen/DATAQUEST, Inc. of Palo Alto, California or at any lesser hourly rate the Department may approve from time to time in its

sole discretion, without area adjustment, but with equipment life adjustment made in accordance with the rate adjustment tables, provided that if rates are not published for a specific type of tool or equipment, Department shall establish a rate for it that is consistent with its cost and use in the industry; or

(ii) if the services are performed by a contractor under contract with the Department, then the sum of:

(A) the amount owing under such contract; plus

(B) 10% of such amount to reimburse the Department for costs of administering the contract; plus

(C) all costs the Department reasonably incurs to enforce or pursue remedies for the contractor's failure to perform in accordance with the contract.

(l) Subject to **Section 6.5(d)**, and without regard to amounts set forth in the Association's relevant Annual Budget, payment to the Department shall be due and payable monthly in full no later than 30 Days after Operator's receipt of the Department's invoice reasonably documenting the amount charged.

(m) Department agrees and acknowledges that its obligations under this **Section 8.3** (i) shall continue in effect throughout the Term regardless of any circumstance, event or occurrence, such as but not limited to an FD/MK Default, an Association Default, a default by any other party to the Project Agreements and bankruptcy or insolvency of any party to the Project Agreements, (ii) are subject to no conditions or exceptions other than (A) annual appropriation and availability of sufficient funds, (B) the standards, qualifications and conditions set forth in this **Section 8.3** and (C) delay in performance due to force majeure events, and (iii) are intended for the benefit of, and are enforceable by, Operator and the Trustee.

Section 8.4. Payment of Current Expenses; Association Working Capital Account.

(a) Association shall pay all Current Expenses and all costs of Extraordinary Maintenance and Repair it or the Department incurs, including but not limited to costs of Compliance Orders; provided that such obligation is limited and subject to availability of funds therefor (i) as described in **subsection (d)** below, (ii) as described in Section 7 of the Project Financing Agreement and (iii) as and when provided in Section 505 of the Master Indenture and any amendments thereto which the Department approves in its sole discretion.

(b) Subject to availability of funds for such purpose under Section 505 of the Master Indenture, the Department shall have the right to receive direct payment from the Trustee for Current Expenses the Department incurs, including but

not limited to the charges described in **Section 8.3(k)**. The Department may submit invoices for such Current Expenses directly to the Trustee. Association shall irrevocably instruct the Trustee to remit payments of such Current Expenses directly to the Department.

(c) The Association shall have the right to maintain within the State a working capital account with a financial institution qualified to do business in the State. As soon as possible after the Opening Date, and thereafter at the beginning of each Fiscal Year, Association shall be entitled to deposit in such account a sum which creates a balance therein of $50,000 (or such other amount as the Department may approve in writing from time to time), but only if and to the extent funds are available for such purpose under item Sixth of subsection 1 of Section 505 of the Master Indenture. If at any time during a Fiscal Year the amount in such account is reduced below $25,000, Association shall be entitled to deposit in such account funds sufficient to replenish such account to a balance of $50,000, but only if and to the extent funds are available for such purpose under item Sixth of subsection 1 of Section 505 of the Master Indenture.

(d) Association shall have the right and obligation to use funds in its working capital account to pay, when due, Current Expenses which are (i) included in the Annual Budget therefor and (ii) other than those incurred by or owing to Department in connection with Department's performance of its delegated responsibilities under **Section 8.3**. Current Expenses payable from such account may include, but are not limited to, Association's attorneys' and accountants' fees, other costs of corporate governance and maintenance, premiums for Association's insurance set forth in **Section 13.3**, and costs of promotion, marketing and advertising for the Project, to the extent and only to the extent included in Association's Annual Budget.

(e) In the event there are insufficient funds in Association's working capital account to pay, when due, Current Expenses described in **subsection (d)** above, Department shall pay such Current Expenses promptly after it receives from the Association an invoice therefor together with reasonable supporting documentation, subject to appropriation and availability of sufficient funds.

(f) Association shall not use or expend funds in its working capital account for any purpose not permitted under **subsection (d)** above.

(g) Not later than 60 Days after the end of each Fiscal Year, Association shall deliver to Department true and complete copies of all statements of activity relating to Association's working capital account for the prior Fiscal Year.

(h) Upon payment or defeasance of the Bonds, payment of or provision for all other obligations of Association payable from the flow of funds under Section 505 of the Master Indenture and discharge of the lien of the Indenture, Association shall remit to the Department all amounts remaining in its working capital account.

Section 8.5. Annual Budget.

(a) For each Fiscal Year and partial Fiscal Year from and after the Agreement Date the Association shall file with the Department and the Trustee a proposed Annual Budget for the Project for such full or partial Fiscal Year. Each such proposed Annual Budget shall set forth the information described in Section 711 of the Master Indenture.

(b) Association shall submit a proposed Annual Budget to the Department for its review not later than 120 Days before the beginning of each such full or partial Fiscal Year. The proposed Annual Budget, and any amendments to any previously approved Annual Budget, shall be subject to the written approval of the Department in its good faith discretion.

(c) The Department shall cooperate with the Association and its consultants in the preparation of Annual Budgets for Current Expenses by, among other things, providing to the Association the Department's reasonable estimates of Current Expenses and other costs the Department will incur in performing its delegated responsibilities under **Section 8.3**.

(d) Until a new Annual Budget is adopted for a Fiscal Year, the prior Fiscal Year's Annual Budget shall be deemed to be the Annual Budget for that Fiscal Year.

Section 8.6. Department Access and Inspection. The Department and its duly authorized agents shall have the right at all times to enter upon, inspect, sample, measure and test any part of the Project, so long as such activity does not unreasonably interfere with operation of the Project.

ARTICLE IX

PROJECT ENHANCEMENTS, DIRECTED CHANGES AND COMPLIANCE ORDERS

Section 9.1. Project Enhancements.

(a) The Department shall have the right from time to time to develop, operate and maintain Project Enhancements. The Department shall have the right to develop, operate and maintain Project Enhancements through one or more of the following mechanisms, as the Department selects from time to time in its sole discretion:

(i) use by the Department of its own personnel, materials and equipment;

(ii) contracting with third parties through requests for proposals, competitive bids, negotiations or any other lawful procurement process; and

(iii) provided funding is available therefor, authorizing and directing the Operator to undertake the Project Enhancements through subcontracting for necessary traffic and revenue studies and for necessary planning, design, engineering, permitting, financial, right of way acquisition, utility relocation, construction, installation, project management, operation, maintenance, repair and other work and services.

(b) Operator shall not undertake any Project Enhancements unless directed by the Department in writing or unless all aspects thereof are approved in writing by Department in its sole discretion. In the event Department authorizes and directs Operator to undertake Project Enhancements, then the Operator, in cooperation with the Department and subject to the review and written approval by the Department in its sole discretion, shall have the right and obligation:

(i) to solicit, negotiate, enter into and enforce performance of subcontracts for all necessary work and services as described in **subsection (a)(iii)** above;

(ii) to obtain or cause to be obtained payment and performance bonds, insurance policies, guarantees, indemnities, revenue subsidies and other risk management and credit instruments as Department may require or authorize in its sole discretion in connection with the Project Enhancements;

(iii) to use diligent efforts to arrange debt and/or equity financing for the Project Enhancements;

(iv) to use diligent efforts to cause all Regulatory Approvals to be obtained for, and thereafter cause to be designed and constructed, the Project Enhancements, subject to prior written approval of the designs and plans therefor, and any changes thereto, by Department in its sole discretion;

(v) where possible, to impose and collect user fees and tolls respecting Project Enhancements, subject to any rate covenant which may be required in connection with the financing for the Project Enhancements;

(vi) to show all completed Project Enhancements on final, as-built plans and specifications submitted to the Department;

(vii) after completion, to manage, operate, maintain and repair the Project Enhancements, subject to Department's right at any time to assume responsibility for all or any portion of such functions; and

(viii) to do or cause to be done all other things respecting the Project Enhancements as are required or permitted with respect to the initial Project under the Project Agreements.

(c) The Department shall have the right to enter upon the Project and the Project Right of Way for any purpose relating to Project Enhancements to the extent reasonably necessary. If the Department elects to develop Project Enhancements without Operator's participation, then the Department shall coordinate such development with Operator so as to minimize to the extent reasonably feasible the disruption to Operator's operation of the Project.

(d) Prior to undertaking any Project Enhancements which could potentially adversely affect Toll Revenues, the Department and Operator shall obtain from the Toll Consultant a traffic forecast and revenue study similar in purpose and scope to the Traffic and Revenue Study or a supplement to the same. Neither the Department nor the Operator shall undertake any Project Enhancements which the Toll Consultant reasonably concludes will cause the Project to be unable (except during the temporary period of construction undertaken in compliance with **Section 12.2(c)**) to generate the minimum level of Toll Revenues required under Section 717 of the Master Indenture.

Section 9.2. Funding of Directed Changes.

(a) The Department shall have the right to access the following sources of funds (in addition to, in lieu of or to reimburse the Department's own funds) to pay the cost of all Discretionary Directed Changes (and interest accrued on Department's payments thereof pursuant to **Section 6.5(c)**), and the Operator shall cooperate with Department to make such sources available:

(i) unexpended funds in the Contingency, but only to the extent such unexpended funds (A) remain after Final Acceptance and payment of or provision for all other amounts owing under the Design-Build Contract and (B) may be so utilized without violating the applicable terms and conditions of the Indenture or related tax certifications;

(ii) funds from the issuance of additional bonded indebtedness permitted to be issued pursuant to Section 302.3(b) of the Master Indenture, and within ten Days after the Department issues a request therefor, Operator shall be obligated to diligently pursue issuance of additional bonded indebtedness for funding such costs, in such amount and on such terms as the Department approves in its sole discretion; and

(iii) federal or other governmental grants and/or insurance proceeds available to pay the cost in question.

(b) The cost of Safety Directed Changes shall be payable to FD/MK only from funds in the Contingency or proceeds from the issuance of Completion Bonds permitted to be issued pursuant to Section 302.3(d) of the Master Indenture or of Extraordinary Completion Bonds permitted to be issued pursuant to Section 720 of the Master Indenture.

Section 9.3. Compliance Orders.

(a) The Department may, but is not obligated to, issue Compliance Orders to the Association at any time during the Term after the Final Acceptance Date. Any matter in the nature of a Compliance Order arising prior to the Final Acceptance Date shall be handled in accordance with the change order provisions of the Design-Build Contract.

(b) After it issues a Compliance Order the Department shall, subject to availability of funding and personnel therefor, proceed with necessary environmental, design and construction work to carry out the Compliance Order.

(c) The costs to carry out any Compliance Order shall constitute, and shall be paid in the same manner as, costs of Extraordinary Maintenance and Repair.

(d) Department may elect in its sole discretion to treat Compliance Orders like Project Enhancements, in which case all the provisions of **Sections 9.1(a) and (b)** shall apply.

ARTICLE X

DEPARTMENT OVERSIGHT AND OTHER SERVICES

Section 10.1. Right to Oversee Work. The Department shall have the right at all times during the Term to carry out Oversight Services respecting all aspects of the design, permitting, financing, acquisition, construction, installation, equipping, maintenance, repair, preservation, modification, operation, management and administration of the Project. Operator shall fully cooperate with the Department to facilitate its conduct of Oversight Services.

Section 10.2. Compensation.

(a) The Department shall not require compensation for Oversight Services relating to the design or permitting for the Project.

(b) The Department shall be compensated for all its services, and those services of the Attorney General's office, relating to Project Right of Way acquisition and Utility Relocation, including but not limited to Oversight Services. Such compensation shall be in an amount equal to the fully burdened hourly rate (including overhead and fringe benefits) of each employee of the State performing such services multiplied by the actual number of hours such employee performs such services, together with all out-of-pocket expenses incurred, including but not limited to purchase prices and condemnation awards paid for Project Right of Way, the cost of all legal, expert witness and other support services, and awards of litigation expenses. Department shall prepare and submit to FD/MK Department's invoices reasonably documenting amounts owing to Department. FD/MK shall promptly submit each invoice to the Trustee for payment; and FD/MK shall pay each invoiced amount no later than five Days after FD/MK receives payment from the Trustee with respect thereto. Such compensation shall be paid first from the ROW/Utility Allowance to the extent available, and second from the Contingency, to the extent available, as provided in the Design-Build Contract and in accordance with the Indenture. If not previously paid by FD/MK, funds for acquisition purchase prices, condemnation awards and amounts owing to Utility Owners respecting Utility Relocations shall be paid from the same sources by the Trustee directly to the escrow respecting the purchase, to the court respecting the condemnation or the Utility Owner respecting the Utility Relocation, or as otherwise directed by the Department, as and when provided in the Design-Build Contract. No party shall have any obligation to make any such payments for which funds are unavailable from such sources.

(c) The Department shall be compensated for its Oversight Services relating to the construction, installation and equipping of the Project and all other Work under the Design-Build Contract except design and permitting. Such compensation shall be in an amount equal to the fully burdened hourly rate (including overhead and fringe benefits) of each employee performing such Oversight Services multiplied by the

actual number of hours such employee performs such Oversight Services, together with all out-of-pocket expenses incurred. Department shall prepare and submit to FD/MK Department's invoices reasonably documenting amounts owing to Department for Oversight Services provided. FD/MK shall promptly submit each invoice to the Trustee for payment; and FD/MK shall pay each invoiced amount no later than five Days after FD/MK receives payment from the Trustee with respect thereto. Such compensation shall be paid out of the Oversight Budget under the Design-Build Contract, if the Oversight Budget is depleted, from the Contingency under the Design-Build Contract and in accordance with the Indenture, and if the Contingency is depleted, from proceeds of any Completion Bonds or other sources of funding to complete the Project. No party shall have any obligation to make any such payments for which funds are unavailable from such sources.

(d) From and after the first to occur of the Opening Date or the Final Acceptance Date, the Operator shall compensate or cause to be compensated the Department for its Oversight Services relating to Operator's non-delegated responsibilities for management, administration and promotion of the Project. The Operator shall pay the Department an amount equal to the fully burdened hourly rate (including overhead and fringe benefits) of each employee providing such Oversight Services multiplied by the actual number of hours such employee performs such Oversight Services, together with all out-of-pocket expenses incurred. Subject to **Sections 6.5(d) and 8.4(a)**, and without regard to amounts set forth in the Operator's relevant Annual Budget, such payment shall be due and payable monthly no later than 30 Days after the Department prepares and delivers an invoice reasonably documenting the amount of such Oversight Services provided. Payment for such Oversight Services is in addition to payment owing to the Department under **Section 8.3(j)**.

ARTICLE XI

CONTRACTING PRACTICES

Section 11.1. Limitation on Operator's Contracting Powers. Except for (a) this Agreement, (b) the other Project Agreements, (c) the contracts, subcontracts and agreements expressly permitted under this Agreement or the other Project Agreements (such as but not limited to subcontracts FD/MK enters into to carry out the Work under the Design-Build Contract) or authorized and directed by Department pursuant to **Section 9.1** and (d) minor agreements the Association enters into in the ordinary course of business which the Association can cancel upon notice and without penalty, the Operator shall have no right or authority to enter into, deliver or perform any contracts or agreements pertaining to the Project or any Project Purposes without the express prior written consent of the Department. The Department may withhold or condition its consent in its sole and absolute discretion.

Section 11.2. Obligation to Refrain from Discrimination.

(a) The Operator covenants and agrees that it shall not discriminate and it shall require all contractors not to discriminate against any person, or group of persons, on account of age, sex, marital status, race, creed, color, national origin, religion or the presence of any sensory, mental or physical handicap in the permitting, design, acquisition, construction, maintenance, operation or management of the Project, nor shall the Operator establish or permit any such practice or practices of discrimination or segregation with reference to the selection, use, hiring, firing, promotion or termination of employees, contractors, subcontractors and vendors or with reference to the use, occupancy or enjoyment of or access to or toll rates charged for use of the Project; provided, however, that the prohibition against discrimination on the basis of sensory, mental or physical handicap shall not apply if the particular disability prevents the proper performance of the particular person involved.

(b) The Operator shall conduct its activities in connection with the Project in compliance with all other requirements imposed pursuant to Title 2.1, Chapter 25, Sections 374 et seq., Code of Virginia; Titles VI and VII of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Americans With Disabilities Act of 1990; and applicable rules and regulations including but not limited to provisions of Title 23, Code of Federal Regulations and Title 49, Code of Federal Regulations, Subtitle A, Office of the Secretary of Transportation, Part 1 (49 C.F.R. Part 21), which are applicable to the Project by reason of use of federal funds for non-construction activities (such as design, Right of Way acquisition and Utility relocation), and as said Regulations may be amended.

ARTICLE XII

INTERRELATIONS AMONG TRANSPORTATION FACILITIES

Section 12.1. Competitive Transportation Facilities.

(a) The Department acknowledges that Competitive Transportation Facilities may adversely affect Toll Revenues and materially impede the repayment of the Bonds, and that Operator may be unable to finance the Project if there is a significant risk that Competitive Transportation Facilities will adversely affect Toll Revenues or impede repayment of the Bonds without Operator having certain rights to receive compensation for proven economic impacts. In consideration thereof, for a period commencing on the Agreement Date and ending on the expiration or earlier termination of this Agreement, the Department shall not, except as permitted in **subsection (b)** below:

(i) initiate, authorize, franchise or finance private Competitive Transportation Facilities;

(ii) open any Department owned or operated Competitive Transportation Facilities; and

(iii) fail to exercise all discretionary authority available to it under Laws, Regulations and Ordinances to prevent any other governmental or private entity from developing Competitive Transportation Facilities, including but not limited to connections to State Highways.

(b) Notwithstanding anything to the contrary set forth in **subsection (a)** above or otherwise in this Agreement, the Department may without liability to Operator:

(i) distribute federal funds to local agencies for Competitive Transportation Facilities, provided that such distribution is a non-discretionary act mandated by federal laws, regulations or policies and the Department has otherwise complied with all of its obligations hereunder with respect to Competitive Transportation Facilities; and

(ii) render such advice and make such recommendations as it may deem to be in the best interests of the State.

Section 12.2. Coordination Regarding Certain Transportation Facilities. The Department shall have the right at any time (and without liability to Operator for any damages it may suffer, except as specifically provided in **subsection (d)** below) to modify existing facilities, to construct new facilities, including but not limited to Project

Enhancements, and to perform planned and emergency maintenance, renewal and replacement, safety and repair activities on existing and new facilities adjacent to or near the Project regardless of the impact of such activities on the Project; provided, however, that:

(a) the Department shall use diligent efforts to keep Operator informed of planned maintenance, renewal and replacement and repair activities which can reasonably be foreseen to impact activities on the Project;

(b) the Department shall provide to Operator copies of and other information concerning the Department's then current maintenance, renewal and replacement and repair program;

(c) the Department shall use reasonable efforts consistent with the Department's budgetary and work force constraints to reduce any adverse impacts of such construction, maintenance, renewal and replacement activities which Operator may reasonably bring to the Department's attention; and

(d) to the extent the modification of existing facilities or construction of new facilities relates to Competitive Transportation Facilities, the provisions of **Section 12.1** shall govern the Department's liability to Operator therefor.

Section 12.3. Traffic Management Activities.

(a) The Department shall have reserved to it at all times the right to conduct traffic management activities on State Highways as well as the Project in accordance with its standard traffic management practices in effect from time to time, including, but not limited to:

(i) Regional traffic system management;

(ii) Operational control of person capacity on the State transportation network as a whole;

(iii) Direction and management of traffic during periods of construction, special events and catastrophe;

(iv) Provision of non-discriminating traveler and driver information provided that such information does not interfere with the functioning of the ETTM System and does not materially and negatively impact toll operations or reduce vehicle throughput capacity in a discriminatory manner; and

(v) Direction and management of traffic off-site.

(b) In carrying out its traffic management responsibilities, the Department shall be entitled to direct traffic and provide variable messages to accomplish the activities above anywhere on the State Highways and regional traffic

system. Without limiting the foregoing, the Department at any time may override any messages posted on variable message signs within or serving the Project in order to post information regarding emergencies, incidences, traffic diversions and delays and other traffic management information.

(c) The Department reserves the right to install additional traffic management equipment and improvements on or serving the Project Right of Way at any time at Department's expense, provided the same does not materially and negatively impact construction or operation of the Project.

(d) The Department shall be permitted to electronically interrogate AVI transponders for traffic management purposes provided this access shall be reasonably limited to minimize transponder battery drain and to avoid compromising motorists' privacy or toll collection system security.

(e) The Department shall have the right to receive, process, use, manipulate, disseminate and generate revenues from all toll and traffic related data generated by the ETTM System, including but not limited to origin/destination, speed, volume and toll rates in effect.

(f) The Department may make available to any contractor it retains to operate the Project or to provide traveler information services any traffic management data which the Department possesses and which the contractor reasonably needs to operate the Project or provide such traveler information services.

Section 12.4. ITS Activities. The Department shall have the right to perform ITS research and install ITS equipment on the Project Right of Way for public, non-revenue generating purposes as well as for commercial, revenue-generating purposes, provided that such ITS equipment does not interfere with the functioning of the ETTM System and does not materially and negatively impact toll operations or reduce vehicle throughput capacity in a discriminatory manner.

ARTICLE XIII

RELIANCE, INDEMNIFICATION AND INSURANCE

Section 13.1. Limitations on Operator's Right to Rely.

(a) Operator expressly acknowledges and agrees that the Department's rights under the Project Agreements (i) to review, comment on, approve, disapprove and/or accept designs, plans, specifications, work plans, construction, equipment, installation, plans for maintenance, traffic management, policing and/or Project management, books, records, reports or statements, or documents pertaining to issuance of the Bonds, (ii) to review, comment on and approve or disapprove qualifications and performance of, and to communicate with, contractors, subcontractors, architects, engineers or other consultants of Operator, (iii) to perform Oversight Services and (iv) to perform responsibilities delegated to Department under **Section 8.3** (A) exist solely for the benefit and protection of the Department (except for the express standards set forth in **Section 8.3**), (B) do not create or impose upon the Department any standard or duty of care toward any Operator Party (except for the express standards set forth in **Section 8.3**), all of which are hereby disclaimed, (C) may not be relied upon, nor may the Department's exercise or failure to exercise any such rights be relied upon, by Operator in determining whether Operator has satisfied the standards and requirements set forth in this Agreement or any other Project Agreement and (D) may not be asserted, nor may the Department's exercise or failure to exercise any such rights be asserted, against the Department by Operator as a defense, legal or equitable, to Operator's obligation to fulfill such standards and requirements. Regardless of the Department's exercise or failure to exercise any such rights, regardless of the issuance of permits or certificates of completion or acceptance, and regardless of Final Acceptance, Operator at all times shall have an independent duty and obligation (except for the duties and obligations expressly delegated to Department under **Section 8.3** and subject to the Department's obligations to pay Current Expenses and Extraordinary Maintenance and Repairs under **Section 6.5(d)**) to obtain all necessary Regulatory Approvals for, design, acquire, construct, equip, operate, maintain, police, renew, replace, provide traffic management for and otherwise manage the Project and Project Right of Way in accordance with the standards and requirements set forth in the Project Agreements.

(b) To the maximum extent permitted by law, Operator hereby releases and discharges the Department from any and all duty and obligation to cause permitting, right of way acquisition, Utility relocation, construction, equipping, operations, maintenance, policing, renewal, replacement, traffic management or other management of or for the Project or Project Right of Way, by the Operator, to satisfy the standards and requirements set forth in the Project Agreements (except to the extent Department is obligated to meet the express standards set forth in **Section 8.3** and subject to the Department's obligations to pay Current Expenses and Extraordinary Maintenance and Repairs under **Section 6.5(d)**).

(c) No rights of the Department described in **subsection (a)** above, no exercise or failure to exercise such rights, no failure of the Department to meet any particular standard of care in the exercise of such rights, no issuance of permits or certificates of completion or acceptance and no Final Acceptance shall:

(i) relieve Operator of its responsibility for the selection and the competent performance of all contractors, subcontractors, architects, engineers and other consultants (except those hired by the Department);

(ii) except to the extent the Department is obligated to meet the express standards set forth in **Section 8.3**, relieve Operator of any of its obligations or liabilities under the Project Agreements;

(iii) be deemed or construed to waive any of the Department's rights and remedies under the Project Agreements; or

(iv) be deemed or construed as any kind of representation or warranty, express or implied, by the Department.

(d) Notwithstanding **subsections (a), (b), and (c)** above, (i) Operator shall be entitled to rely on specific written deviations and interpretative engineering decisions the Department gives under the Design-Build Contract, (ii) the Department is not relieved of its obligations under **Section 8.3**, (iii) the Department is not relieved from any liability arising out of a knowing, intentional misrepresentation under any written statement the Department delivers and (iv) the Department is not relieved from its obligations under the Design-Build Contract.

Section 13.2. Indemnities.

(a) FD/MK shall indemnify each State Indemnitee and each Association Indemnitee to the extent provided in the Design-Build Contract and the Project Financing Agreement.

(b) Association shall indemnify each State Indemnitee and each FD/MK Indemnitee to the extent provided in the Project Financing Agreement.

(c) The Department shall indemnify each FD/MK Indemnitee and Association Indemnitee to the extent provided in the Project Financing Agreement to the extent provided by law.

(d) The indemnities of the Department, FD/MK and Association shall survive the expiration or earlier termination of this Agreement and the other Project Agreements, the assignment and release set forth in **Section 21.1(b)** and the assignment and assumption set forth in the Project Financing Agreement.

Section 13.3. Responsibilities Regarding Insurance.

(a) FD/MK shall carry or cause to be carried the insurance policies and satisfy or cause to be satisfied the insurance covenants set forth in the Design-Build Contract.

(b) From and after the Opening Date Department, or at Department's direction the Association, shall obtain and keep in force a policy of business interruption insurance as follows:

(i) such insurance policy shall insure against interruption or loss of projected Toll Revenues resulting from physical damage to the Project improvements, excluding road beds and surfaces unless located on a bridge or other structure, caused by occurrence of any risk which would be covered under standard all risk policies in force in the State;

(ii) the policy shall cover interruption or loss of Toll Revenues for one full year from occurrence of risk, and such coverage shall be adjusted annually to reflect the projected Toll Revenues for the next 12 month period;

(iii) the State and the Department shall be the named insureds, the Association shall be an additional insured, and the policy shall be endorsed to show the Trustee as loss payee under the Indenture;

(iv) the policy may include commercially reasonable deductibles as determined by the Department and its risk management staff;

(v) the policy shall be in form and substance as is then standard in the State and acceptable to the Commission's Bureau of Insurance for policies of like coverage;

(vi) the policy shall be issued by insurance carriers licensed to do business in the State and having a current policyholder's management and financial size category rating of not less that "AVII" according to A.M. Best's Insurance Reports Key Rating Guide (except for policies underwritten by Lloyd's of London and approved English companies acceptable to the State and approved in writing by the Department), or of recognized financial responsibility and otherwise approved by the Department and the Trustee in writing;

(vii) the policy shall provide that it cannot be canceled, suspended, lapsed or modified upon less than 30 Days (or for non-payment of premium, ten Days) prior written notice by registered or certified mail to the Department and each other insured or additional insured party; and

(viii) the policy shall provide that the coverage thereof is primary and noncontributory coverage with respect to all named or additional insureds.

(c) The Department makes no representation that the limits of liability specified for the insurance policy to be carried pursuant to **subsection (b)** above are adequate to protect the Association against its undertakings under this Agreement, the Indenture or the other Project Agreements to the Department, FD/MK, the Trustee or any third party. No such limits of liability shall preclude the Department from taking any actions as are available to it under this Agreement or the other Project Agreements or otherwise at law.

(d) If the insurance carrier under the insurance policy described in **subsection (b)** above denies coverage with respect to any Claims reported to such carrier, Association and the Department 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.

(e) The Association shall have the right to purchase and maintain in effect (i) a policy of liability insurance for non-profit organizations including actions by directors and officers in their official capacity and (ii) from and after the Opening Date, either a policy of vicarious general liability insurance, if available at lesser premium, or if not available at lesser premium, a policy of commercial general liability insurance, to include premises operations, independent contractor's liability, completed operations and products liability, blanket broad form contractual liability, broad form property damage liability (explosions, collapse, underground operations) and personal injury liability. Each policy shall be in standard form in use in the State and in a commercially reasonable amount approved in writing by the Department from time to time. The Department shall be stated as an additional insured under the vicarious or commercial general liability policy under a form of additional insured endorsement the Department requires. The premiums and reserves for such policies shall constitute a part of Current Expenses.

(f) Subject to availability of funds, the Association shall purchase and maintain in effect such insurance pertaining to Project Enhancements or improvements respecting Reserved Rights as the Department may direct or approve in writing in its sole discretion.

(g) The Department may, but is not obligated to, purchase or authorize and direct the Association to purchase other and additional policies of insurance respecting the Project, and the premiums and reserves for any such insurance policies shall constitute a part of Current Expenses unless payable from proceeds of Public Debt as part of the Costs of Issuance. Except for the policies described in **subsections (b), (e) and (f)** above, the Association shall not purchase any policies of insurance respecting the Project or the Association without the prior written approval of the Department in its sole discretion.

ARTICLE XIV

INTENTIONALLY OMITTED

ARTICLE XV

REPRESENTATIONS, WARRANTIES AND FINDINGS

Section 15.1. Department Representations and Warranties. The Department hereby represents and warrants to Operator as follows:

(a) The Department is a department of the executive branch of the State and has full power, right and authority to execute, deliver and perform its obligations under, in accordance with and subject to the terms and conditions of this Agreement and other Project Agreements to which the Department is a party;

(b) Each person executing this Agreement or any other Project Agreement on behalf of the Department to which the Department is a party has been or at such time will be duly authorized to execute each such document on behalf of the Department.

(c) Neither the execution and delivery by the Department of this Agreement and the other Project Agreements executed concurrently herewith to which the Department is a party, nor the consummation of the transactions contemplated hereby or thereby, is in conflict with or will result in a default under or violation of any other agreements or instruments to which it is a party or by which it is bound.

(d) There is no action, suit, proceeding, investigation or litigation pending and served on the Department which challenges the Department's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement and the other Project Agreements to which the Department is a party, or which challenges the authority of the Department official executing this Agreement or the other Project Agreements, and the Department has disclosed to Operator any pending and unserved or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which the Department is aware.

Section 15.2. FD/MK Representations and Warranties. FD/MK hereby represents and warrants to the Department and Association as follows:

(a) FD/MK is a duly organized limited liability company created under the laws of the State 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 this Agreement and the other Project Agreements to which FD/MK is a party and to perform each and all of the obligations of FD/MK provided for herein and therein.

(b) FD/MK has taken or caused to be taken all requisite action to authorize the execution and delivery of, and the performance of its obligations under, this Agreement and the other Project Agreements to which FD/MK is a party.

(c) Each person executing this Agreement or any other Project Agreement on behalf of FD/MK has been or will at such time be duly authorized to execute each such document on behalf of FD/MK.

(d) Neither the execution and delivery by FD/MK of this Agreement and the other Project Agreements to which FD/MK is a party, nor the consummation of the transactions contemplated hereby or thereby, is in conflict with or will result in a default under or a violation of the governing instruments of FD/MK or any other agreements or instruments to which it is a party or by which it is bound.

(e) There is no action, suit, proceedings, investigation or litigation pending and served on FD/MK which challenges FD/MK's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement and the other Project Agreements to which FD/MK is a party, or which challenges the authority of the FD/MK official executing this Agreement or the other Project Agreements; and FD/MK has disclosed to the Department any pending and unserved or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which FD/MK is aware.

(f) FD/MK is in material compliance with all Laws, Regulations and Ordinances applicable to FD/MK or its activities in connection with this Agreement and the other Project Agreements.

Section 15.3. Association Representations and Warranties. By executing and delivering the Project Financing Agreement, the Association represents and warrants to the Department and FD/MK as follows:

(a) Association is a duly organized nonstock, nonprofit corporation created under the laws of the Commonwealth of Virginia, has the requisite power and all required licenses to carry on its present and proposed activities, and has full power, right and authority to take assignment of and assume the obligations of the Operator under this Agreement and of the operator under the PPTA, to execute and deliver the other Project Agreements to which Association is a party and to perform each and all of the obligations of Association provided for herein and therein.

(b) Association has taken or caused to be taken all requisite action to authorize the execution and delivery or assumption of, and the performance of its obligations under, this Agreement and the other Project Agreements to which Association is a party.

(c) Each person executing any Project Agreement on behalf of Association has been duly authorized to execute each such document on behalf of Association.

(d) Neither the execution and delivery or assumption by Association of this Agreement and the other Project Agreements to which Association is a party, nor

the consummation of the transactions contemplated hereby or thereby, is in conflict with or will result in a default under or a violation of the governing instruments of Association or any other agreements or instruments to which it is a party or by which it is bound.

(e) There is no action, suit, proceeding, investigation or litigation pending and served on Association which challenges Association's authority to execute, deliver, assume or perform, or the validity or enforceability of, this Agreement and the other Project Agreements to which Association is a party, or which challenges the authority of the Association official executing the Project Agreements; and Association has disclosed to the Department any pending and unserved or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which Association is aware.

(f) Association is in material compliance with all Laws, Regulations and Ordinances applicable to Association or its activities in connection with this Agreement and the other Project Agreements.

Section 15.4. Survival of Representations and Warranties. The representations and warranties of the Department, FD/MK and Association contained herein shall survive expiration or earlier termination of this Agreement and the other Project Agreements.

Section 15.5. Department's Findings Under PPTA. Department, as the Responsible Public Entity with respect to the Project, makes the following findings:

(a) the actions taken by Department pursuant to the PPTA facilitate the timely construction and operation of the Project;

(b) there is a public need for a transportation facility of the type of the Project;

(c) the Project, its interconnections with existing transportation facilities, and the Operator's plans for operation of the Project are reasonable and compatible with the state transportation plan and with local comprehensive plans;

(d) the estimated cost of the Project is reasonable in relation to similar facilities;

(e) Operator's plans will result in the timely acquisition, construction and operation of the Project;

(f) the date that the notice to proceed with construction is given under the Design-Build Contract shall be the date established for the beginning of construction of the Project as a Qualifying Transportation Facility;

(g) the Project will be owned by the Department as a public road and under this Agreement the Project will be kept open for use by members of the public from and after the Opening Date upon payment of the applicable tolls;

(h) the construction and operation of the Project serve the public purpose of the PPTA; and

(i) the terms and conditions of this Agreement serve the public purpose of the PPTA.

ARTICLE XVI

TERMINATION

Section 16.1. Termination Upon Satisfaction or Defeasance of Bonds.

(a) This Agreement, the other Project Agreements and all the rights of Operator hereunder and the contractor thereunder shall cease and terminate, without notice or demand from Department, upon the first to occur of the following:

(i) the date the Association shall have repaid the Bonds, including the SIB Bond and Contractor Bond; or

(ii) the date of defeasance of all Bonds in accordance with the defeasance provisions of the Indenture.

(b) Without limiting the generality of the foregoing, but subject to the last sentence in **Section 20.1(d)**, Department shall have the right, but not the obligation, at any time and in its sole discretion, to obtain unencumbered title to and exclusive possession of the Project, including but not limited to irrevocable release of any and all pledges of the Trust Estate, re-assignment of the Trustee's security interests in the Project Agreements and termination of record of the Memorandum and Assignment (other than the absolute assignment of Toll Revenues to the Department), by placing into escrow with the Trustee an amount that will be sufficient to purchase, redeem or defease the Bonds, including the SIB Bond and Contractor Bond, in accordance with the provisions of Article VIII of the Master Indenture and by paying reasonable costs incident to such purchase, redemption or defeasance.

Section 16.2. Termination for Public Convenience.

(a) The Department may at any time after the first to occur of the Financial Closing Date or December 31, 1998, when the Department determines in its sole discretion that such action is in the best interests of the State:

(i) prior to Substantial Completion, terminate all of FD/MK's rights and obligations (but not the Association's rights and obligations as FD/MK's assignee) under this Agreement and the Design-Build Contract, subject to **subsection (b)** below;

(ii) terminate all of Association's rights and obligations under this Agreement and the other Project Agreements, subject to **subsection (c)** below; or

(iii) terminate both FD/MK's and Association's rights and obligations under this Agreement and the other Project Agreements, subject to **subsection (d)** below.

(b) If the Department exercises its right of termination under **subsection (a)(i)** above, the following shall apply:

(i) Department shall deliver to FD/MK a Notice of Termination and thereafter Department and FD/MK shall comply with the provisions of Article 26 of the Design-Build Contract;

(ii) prior to the effective date of termination, as set forth in the Termination Notice, the Department (A) shall enter into, or, at the direction of and subject to the approval of the Department, the Association shall enter into, a new design and construction contract for completion of the Project with a substitute contractor having the qualifications, experience, expertise and financial ability necessary to complete the Work and shall submit the contract and such information on the contractor to the Trustee, or (B) shall commit in writing to Association that the Department will itself complete design, engineering and construction of the Project, or (C) shall provide sufficient funds to the Association so that it is able, and the Association has taken such actions as may be so required, to pay, purchase, redeem, defease, or otherwise provide for the satisfaction of any outstanding Bonds, including the SIB Bond and Contractor Bond, in accordance with the terms of the Indenture;

(iii) if the Department or Association has entered into a design and construction contract under **subsection (b)(ii)(A)** above, either the contract shall provide a contract price (including allowances and contingencies) for the remaining Work to be performed no greater than that left to be expended under the Design-Build Contract or, if the contract price is greater, the Department or CTB shall commit in writing to the Association to provide additional funding under **Section 6.5(c)** which, when added to funds available in the Construction Fund, are sufficient to pay such contract price, should the Association be unable to issue Completion Bonds adequate in amount (together with funds available in the Construction Fund) to pay such contract price; and

(iv) if the Department or Association has entered into a design and construction contract under **subsection (b)(ii)(A)** above, or if Department commits to complete the Project itself pursuant to **subsection (b)(ii)(B)** above, Department shall assume in writing, effective as of the termination date set forth in the Notice of Termination, all obligations of FD/MK under the Contractor Loan Agreement arising from and after such termination date, and shall purchase the Contractor Bond for an amount equal to all then outstanding principal and accrued, unpaid interest thereon. Concurrently with Department's payment of such purchase price, FD/MK shall transfer to Department ownership and possession of the Contractor Bond.

(c) If the Department exercises its right of termination under **subsection (a)(ii)** above, the following shall apply:

(i) if termination occurs after issuance of the Bonds, the Department shall provide or cause to be provided sufficient funds to the Association so

that it is able, and the Association has taken such action as may be required, to pay, purchase, redeem, defease or otherwise provide for the satisfaction of any outstanding Bonds, including the SIB Bond and Contractor Bond, in accordance with the terms of the Indenture; and

(ii) the Department shall provide or arrange for alternate sources of funds sufficient to pay all amounts to become due under the Design-Build Contract in order to complete the Work.

(d) If the Department exercises its right of termination under **subsection (a)(iii)** above, then the provisions of **subsections (b)(i) and (c)(i)** above shall apply.

(e) Department waives any right it may have to terminate for public convenience until after the first to occur of the Financial Closing Date or December 31, 1998. Such waiver does not in any manner limit or affect any other termination rights of Department.

Section 16.3. Other Unilateral Rights to Terminate.

(a) The Department shall have the right to terminate the Design-Build Contract due to an Event of Default by FD/MK thereunder as set forth in the Design-Build Contract. Upon any such termination, FD/MK's rights (but not the Association's rights as assignee of FD/MK) under this Agreement shall automatically terminate. Department's remedies against FD/MK following any such termination are fully set forth in the Design-Build Contract.

(b) The Department shall have the right to terminate all the Association's rights under this Agreement and/or any other Project Agreement as provided in **Section 17.6(a)(ii)**.

(c) The Department shall have the right to terminate this Agreement and the Project Agreements, or any of them, if for any reason any condition precedent set forth in **Section 6.2(e)** is not satisfied, and/or the Bonds are not issued and sold, by December 31, 1998.

(d) FD/MK shall have the right to unilaterally terminate its obligations under this Agreement, the Design-Build Contract and the Contractor Loan Agreement only if, despite its good faith and diligent efforts, any condition precedent set forth in **Section 6.2(e)** is not satisfied or waived, and/or the Bonds are not issued and sold, by December 31, 1998. FD/MK shall have no right to unilaterally terminate the Design-Build Contract or its obligations under this Agreement after the Bonds are issued, including in the case of material default by the Department or delay in satisfaction of conditions precedent to commencing construction. The foregoing does not limit any rights FD/MK may have under the Design-Build Contract to stop Work.

(e) The Association shall have no right to terminate its obligations under this Agreement or any other Project Agreement, including in the case of material default by the Department, FD/MK or any other party thereto.

(f) If the Department exercises its right of termination under **subsection (a)** above, then:

(i) Department shall deliver to FD/MK the notice set forth in Section 25.2.2 of the Design-Build Contract and thereafter Department and FD/MK shall comply with the provisions of said Section 25.2.2;

(ii) the provisions of **Sections 16.2(b)(ii) and (iii)** shall apply, except that with respect to **Section 16.2(b)(ii)** the Department shall be required to take one of the actions specified therein as soon as reasonably practicable, but in any event within 90 Days, after the effective date of termination of the Design-Build Contract; and

(iii) FD/MK shall remain fully obligated under the Contractor Loan Agreement, which, together with the Guaranty of Contractor Loan Agreement, shall remain in full force and effect.

(g) If the Department exercises its right of termination under **subsection (b)** above, then the provisions of **Section 16.2(c)** shall apply.

Section 16.4. Operator Actions Upon Termination. On the effective date of termination of this Agreement or Operator's rights under this Agreement, Operator shall deliver to the Department:

(a) all reports, books, records, work product and Intellectual Property of Association in any manner relating to the Project;

(b) possession and control of the Project and Project Right of Way; and

(c) a recordable notice of termination of this Comprehensive Agreement and of the Memorandum and Assignment (other than the absolute assignment of Toll Revenues to the Department), in form required by the Department, executed and acknowledged (i) if termination occurs prior to the Transition Date, by Association, FD/MK, Trustee and Department, or (ii) if termination occurs after the Transition Date, by Association and Department and, unless the lien of the Indenture has been discharged in accordance with its terms, the Trustee, and stating that the Transition Date has occurred. The Department may record such notice of termination in the land records of each county in which the Project is located and of the City of Richmond.

Section 16.5. Liability After Termination.

(a) In the event this Agreement or any other Project Agreement is terminated by reason of a material default, such termination shall not excuse the defaulting party from any liability arising out of such default as provided in the Project Agreements.

(b) In the event this Agreement or any other Project Agreement is terminated by reason other than a default, no party shall have any further obligation or liability except for performance of their respective obligations which are either expressly stated in a Project Agreement to survive termination or by their sense and context are intended to survive termination.

Section 16.6. Exclusive Termination Remedies.

(a) This **Article XVI**, together with the express provisions on termination set forth the Design-Build Contract, set forth the entire and exclusive provisions and rights of the Department, FD/MK and Association regarding termination of the Project Agreements, and any and all other rights to terminate at law or in equity are hereby waived to the maximum extent permitted by law.

(b) As permitted by Section 56-568 of the PPTA, the Department agrees that it shall not exercise any rights under the third sentence of Section 56-568C of the PPTA and following any such termination, the Revenues shall be applied as provided in Section 505 of the Master Indenture.

ARTICLE XVII

DEFAULTS AND REMEDIES

Section 17.1. FD/MK Defaults. Each of the following events shall constitute an FD/MK Default under this Agreement:

(a) FD/MK shall fail to timely observe or perform or cause to be observed or performed any covenant, agreement, obligation, term or condition required to be observed or performed by FD/MK under this Agreement (provided that if the same is also required of FD/MK under the Design-Build Contract, then **subsection (f)** below shall apply in lieu of this **subsection (a)**);

(b) any representation or warranty made by FD/MK, FC, MKC (Delaware) or MKC (Ohio) herein or in any other Project Agreement shall be inaccurate or misleading in any respect on the date made or deemed made and a material adverse effect upon the Project or Department's rights or obligations under the Project Agreements results therefrom;

(c) FD/MK shall fail to execute and deliver, or fail to cause FC, MKC (Delaware), MKC (Ohio) and Association to execute and deliver, any Project Agreement as and when required under this Agreement;

(d) FD/MK shall commence a voluntary case seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect; shall seek the appointment of a trustee, receiver, liquidator, custodian or other similar official of FD/MK or any substantial part of FD/MK's assets; shall file an answer admitting the material allegations of a petition filed against FD/MK in any involuntary case commenced against FD/MK; shall consent to any such relief or to the appointment of or taking possession by any such official in any voluntary case commenced against FD/MK; shall make an assignment for the benefit of creditors; shall fail, be unable, or admit in writing the inability generally to pay FD/MK's debts as they become due; or shall take any action to authorize any of the foregoing, or any of the foregoing acts or events shall occur with respect to both FC and MKC (Delaware) (but not necessarily in the same proceeding or concurrently);

(e) an involuntary case shall be commenced against FD/MK seeking liquidation, reorganization, dissolution, winding up, a composition or arrangement with creditors, a readjustment of debts or other relief with respect to FD/MK or FD/MK's debts under any 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 FD/MK or any substantial part of FD/MK'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 FD/MK in good faith or shall remain

undismissed and unstayed for a period of 90 Days, or any such involuntary case or cases shall be commenced against both FC and MKC (Delaware) (but not necessarily in the same proceeding or concurrently) and such case or cases shall not be contested by FC and MKC (Delaware) in good faith or shall remain undismissed and unstayed for a period of 90 Days; or

(f) any Event of Default by FD/MK under the Design-Build Contract.

Section 17.2. FD/MK Cure Periods. FD/MK shall have the following cure periods with respect to the following FD/MK Defaults:

(a) respecting an FD/MK Default under **Section 17.1(a), (b) or (c)**, a period of 15 Days after FD/MK receives written notice of the FD/MK Default, provided that if the FD/MK Default is under **Section 17.1(a) or (b)** and is of such a nature that the cure cannot with diligence be completed within such time period and FD/MK has commenced meaningful steps to cure immediately after receiving the default notice, then FD/MK shall have such additional period of time, up to a maximum cure period of 180 Days, as is reasonably necessary to diligently effect cure;

(b) respecting an FD/MK Default under **Section 17.1(d) or (e)**, no cure period; and

(c) respecting an FD/MK Default under **Section 17.1(f)**, the cure period, if any, set forth in the Design-Build Contract.

Section 17.3. Department Remedies for FD/MK Default. Upon the occurrence of an FD/MK Default and expiration, without full cure, of any applicable cure period, the Department may exercise any one or more of the following remedies as the Department in its sole and absolute discretion shall determine:

(a) in the event of an FD/MK Default under **Section 17.1(a),(b),(c), (d) or (e)**, any and all remedies available at law or in equity, including but not limited to recovery of damages to the extent provided by law; provided that in no event shall FD/MK be liable for, and Department waives all Claims for, (i) any damages of any kind arising out of FD/MK's breach of its obligation under this Agreement to cause the Association to undertake or to refrain from any designated act, except damages for Department's costs, including but not limited to reasonable attorneys' fees, of enforcing such obligation by means of action for specific performance or other equitable relief against FD/MK or the Association, and (ii) indirect, incidental or consequential damages of any nature, whether in contract, tort (including negligence) or other legal theory, unless arising out of the fraud or intentional misrepresentation of FD/MK or any of its members, managers, partners, directors, officers, employees or agents;

(b) in the event of an FD/MK Default under **Section 17.1(f)**, any applicable remedies set forth in the Design-Build Contract;

(c) in the event of a material FD/MK Default, Department's termination of all FD/MK's rights under this Agreement and the Design-Build Contract and of all FD/MK's rights of entry upon, possession and control and operation of the Project, which termination shall be subject to the provisions of **Sections 16.2(b)(ii) and (iii)**;

(d) the Department may offset any sums the Department owes to FD/MK by any sums owing to the Department from FD/MK, including but not limited to Liquidated Damages or other undisputed or finally adjudicated monetary damages owing Department under the Design-Build Contract; and

(e) the Department may satisfy any sums FD/MK owes the Department, including but not limited to such Liquidated Damages and other undisputed or finally adjudicated monetary damages, from funds available for distribution to FD/MK as holder of the Contractor Bond under Section 505 of the Master Indenture; and for this purpose the Master Indenture shall require the Trustee (i) to remit such sums to Department upon receipt of a Department certificate setting forth the sum owing accompanied by the written consent of an Authorized FD/MK Representative or by an order or final judgment entered by any court, or (ii) if **subsection (e)(i)** above does not apply, to interplead into court the sum claimed by the Department to be owing to it as set forth in such Department certificate.

Section 17.4. Association Defaults. Each of the following events shall constitute an Association Default under this Agreement:

(a) Association shall fail to pay or cause the Trustee to pay to the Department when due, from available funds under the Indenture or in Association's working capital account, moneys due and payable to the Department under this Agreement, the Indenture or the SIB Loan Agreement;

(b) Association shall fail to timely observe or perform or cause to be observed or performed any covenant, agreement, obligation, term or condition required to be observed or performed by Association under this Agreement;

(c) any representation or warranty made by Association herein or in any other Project Agreement shall be inaccurate or misleading in any respect on the date made or deemed made and a material adverse effect upon the Project or Department's rights or obligations under the Project Agreements results therefrom;

(d) Association in any of its reports to be submitted to the Department hereunder or under the Indenture shall misrepresent or omit any material information required to be included therein;

(e) Association shall commence a voluntary case seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect; shall seek the appointment of

a trustee, receiver, liquidator, custodian or other similar official of Association or any substantial part of Association's assets; shall file an answer admitting the material allegations of a petition filed against Association in any involuntary case commenced against Association; shall consent to any such relief or to the appointment of or taking possession by any such official in any voluntary case commenced against Association; shall make an assignment for the benefit of creditors; shall fail, be unable, or admit in writing the inability generally to pay Association's debts as they become due; or shall take any action to authorize any of the foregoing;

(f) an involuntary case shall be commenced against Association seeking liquidation, reorganization, dissolution, winding up, a composition or arrangement with creditors, a readjustment of debts or other relief with respect to Association or Association's debts under any 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 Association or any substantial part of Association 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 Association in good faith or shall remain undismissed and unstayed for a period of 90 Days; or

(g) any event of default or failure to perform by Association under any other Project Agreement.

Section 17.5. Association Cure Periods. Association shall have the following cure periods with respect to the following Association Defaults:

(a) respecting an Association Default under **Section 17.1(a)**, a period of 15 Days after Association receives written notice of the Association Default;

(b) respecting an Association Default under **Section 17.1(b), (c) or (d)**, a period of 30 Days after Association receives written notice of the Association Default, provided that if the Association Default is of such a nature that the cure cannot with diligence be completed within such time period and Association has commenced meaningful steps to cure immediately after receiving the default notice, Association shall have such additional period of time, up to a maximum cure period of 180 Days, as is reasonably necessary to diligently effect cure;

(c) respecting an Association Default under **Section 17.1(e) or (f)**, no cure period; and

(d) respecting an Association Default under **Section 17.1(g)**, the cure period, if any, set forth in the relevant Project Agreement.

Section 17.6. Department Remedies for Association Defaults.

(a) Upon the occurrence of an Association Default and expiration, without full cure, of any applicable cure period, the Department may exercise any one or more of the following remedies as the Department in its sole and absolute discretion shall determine:

(i) any and all remedies available at law or in equity, based on any applicable theory, including but not limited to damages to the extent provided by law, subject, however, to **subsection (c)** below;

(ii) in the event of a material Association Default, Department's termination of all the Association's rights under this Agreement and/or any other Project Agreements and the Department's entry upon, possession and control and operation of, the Project, which termination shall be subject to the provisions of **Section 16.2(c)**;

(iii) in the event of a material Association Default, the Department may seek and obtain the appointment of a receiver for the Association and/or all or any portion of the Association's assets, with full right and authority to control and conduct the Association's affairs and perform Association's obligations under the Project Agreements; and

(iv) in the event of a material Association Default, the Department may, but is not obligated to, pay and perform any or all of Association's obligations under the Project Agreements, without further notice and without waiving or releasing Association from any obligations. In the exercise of such right, neither the Department nor any agent, contractor, subcontractor, vendor, employee or representative of the Department shall be liable to the Association in any manner for the sufficiency or adequacy of Department's payment or performance, unless caused by the gross negligence, recklessness, willful misconduct or bad faith of such party. The full faith and credit of the State and Department shall not be pledged to secure any Bonds by virtue of Department's election to pay or perform Association's obligations, nor shall the Department become obligated thereby to pay any obligation of Association from sources other than Toll Revenues.

(b) Each right and remedy of the Department 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 the Department of any one or more of any of such rights or remedies against the Association shall not preclude the simultaneous or later exercise by the Department of any or all other such rights or remedies.

(c) Notwithstanding any contrary provision of this Agreement, the obligations of the Association under this Agreement are limited obligations, payable solely from the assets of the Association; and recourse against the Association shall be

limited to such assets. No covenant or agreement of the Association contained in this Agreement shall be deemed to be the covenant or agreement of any member of the Board of the Association or any officer, agent, employee or representative of the Association, and none of the officers, agents, employees or representatives of the Association shall be personally liable thereon, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the Association's assumption of obligations under this Agreement, unless liability is the result of fraud, intentional misrepresentation, willful misconduct or knowing violation of criminal law by such member of the Board, officer, agent , employee or representative.

Section 17.7. Department Defaults.

(a) Each of the following events shall constitute a Department Default:

(i) the Department shall fail to observe or perform any covenant, agreement, term or condition required to be observed or performed by the Department under this Agreement;

(ii) any representation or warranty made by the Department herein or in any other Project Agreement shall be inaccurate or misleading in any respect on the date made and a material adverse effect upon the Project or FD/MK's or Association's rights or obligations under the Project Agreements results therefrom;

(iii) an event of default by the Department occurs under any other Project Agreement; or

(iv) the Virginia General Assembly shall enact legislation which (A) the State intends to impact, and does impact, only the Operator, this Agreement, the Project or the class of operators, agreements or transportation facilities established pursuant to the PPTA; and (B) materially impairs Operator's rights under this Agreement to plan, develop, finance, construct and operate the Project and to impose and collect tolls on the users thereof, all as provided for in this Agreement and the other Project Agreements.

(b) Except as set forth in **subsection (a)(iv)** above, Operator acknowledges that no act or omission of any federal, State, regional or local government or agency thereof, other than the Department, shall constitute a Department Default hereunder.

Section 17.8. Department Cure Periods. The Department shall have the following cure periods with respect to the following Department Defaults:

(a) respecting a Department Default under **Section 17.7(a)(i) or (ii)**, a period of 30 Days after the Department receives written notice of the Department

Default, provided that if the Department Default is of such a nature that the cure cannot with diligence be completed within such time period and the Department has commenced meaningful steps to cure immediately after receiving the default notice, the Department shall have such additional period of time, up to a maximum cure period of 180 Days, as is reasonably necessary to diligently effect cure;

(b) respecting a Department Default under **Section 17.7(a)(iii)**, the cure period, if any, set forth in the relevant Project Agreement; and

(c) respecting a Department Default under **Section 17.7(a)(iv)**, a period of 180 Days after the date the subject legislation becomes law; provided that, if the effectiveness of such legislation is stayed by a court of law, the running of such 180 day cure period shall be suspended for the duration of any such stay.

Section 17.9. Operator Remedies.

(a) Except as otherwise provided in **Sections 16.3(d) and (e)** and in **subsections (b) and (c)** below, upon the occurrence of a Department Default and expiration, without full cure, of any cure period available respecting such Department Default, Operator may exercise any rights and remedies available to Operator under this Agreement or the other Project Agreements or as are otherwise available to Operator at law; provided, however:

(i) Operator shall have no right to seek or obtain equitable relief against the Department arising out of a Department Default except (A) writ of mandamus to the extent available, (B) equitable remedies regarding monetary compensation (such as relief in quantum meruit) and (C) equitable remedies available in the case of a Department Default resulting from action by the Department which is outside the Department's legal authority;

(ii) neither FD/MK nor the Association nor the Trustee shall be entitled, and each of them waives all right, to recover indirect, incidental or consequential damages, including but not limited to lost Toll Revenues and lost profits, whether such damages arise in contract, tort or other legal theory, and irrespective of fault, negligence or strict liability, except and only to the extent provided otherwise in **subsection (b)** below and Section 19.3.3.3 of the Design-Build Contract;

(iii) in no event shall the Association or Trustee be entitled to recover an amount greater than that which it could recover upon a termination for convenience under **Section 16.2(c)(i)**;

(iv) Department's obligations and liabilities are strictly limited to those set forth in the Project Agreements, and neither FD/MK nor the Association nor the Trustee shall have or may assert, and each of them waives, any Claim against Department based on any supposed or alleged duties arising in tort; and

(v) notwithstanding anything herein to the contrary, the recovery of Claims against the State shall be subject to all Laws, Regulations and Ordinances, including without limitation, Title 8.01, Chapter 3, Article 18 (commencing at Section 8.01-192) and Article 18.1 (commencing at Section 8.01-195.1), Code of Virginia.(b)If the Department Default consists of a breach of **Section 12.1**, Association's and the Trustee's sole and exclusive remedy shall be to recoup an amount equal to the loss of Toll Revenues proximately caused by the Department's action in violation of **Section 12.1**, as determined by the Toll Consultant, except for Toll Revenues lost after Association has repaid or the Department has redeemed or defeased the Bonds in full.

(c) Except as otherwise provided in **subsection (d)** below, the Department's payment of any monetary damages or other compensation or award under **subsection (a)** above shall be conditioned upon express legislative authorization and appropriation of the payment to Operator of such damages, compensation or award.

(d) Any outstanding monetary damages or other compensation or award owing to Operator under **subsection (a)** above shall be satisfied from Toll Revenues available from time to time for distribution to the Department (but not the CTB in respect of the SIB Loan) under Section 505 of the Master Indenture (as the same may be modified from time to time with the written approval of the Department).

(e) Promptly after any final judgment is rendered by a court of competent jurisdiction or arbitrator awarding compensation or damages to Operator and all appeal rights are exhausted, the Department shall institute payment procedures as set forth in Title 8.01, Section 195, Code of Virginia; provided, however, Operator shall not receive payment with respect to any amounts recovered from Toll Revenues as provided in **subsection (d)** above.

(f) If Operator has not received the full amount of any outstanding monetary damages or other compensation or award owing to Operator under **subsection (a)** above within 24 months after the same became payable, the Department shall (i) use diligent efforts to obtain from the Virginia General Assembly an appropriation sufficient to make such payment, and (ii) include such payment amount in its annual budget request, for five legislative sessions, if necessary, and diligently seek an appropriation to make such payment.

Section 17.10. Dispute Resolution; No Declaratory Judgment Procedure.

(a) All disputes between Department and FD/MK arising under or relating to the Design-Build Contract (or arising out of or relating to obligations under this Agreement which are duplicative of obligations under the Design-Build Contract) shall be resolved in accordance with the dispute resolution provisions set forth in the Design-Build Contract.

(b) All litigation between the parties arising out of or pertaining to this Agreement or its breach shall be filed, heard and decided in the Circuit Court for the City of Richmond, Virginia, Division I, which shall have exclusive jurisdiction and venue; provided that the foregoing does not affect any claims or matters which are governed by a different dispute resolution procedure set forth in any other Project Agreement.

(c) Each party shall bear its own attorneys' fees and costs in any dispute or litigation arising out of or pertaining to this Agreement or any other Project Agreement, and no party shall seek or accept an award of attorneys' fees or costs.

(d) As permitted by Section 56-568 of the PPTA, the parties agree that any requirement that the State Corporation Commission issue a declaratory judgment regarding a material default (as defined in Section 56-565 of the PPTA) pursuant to such Section 56-568, as a prerequisite to exercising any remedy set forth in this Agreement, any other Project Agreements or such Section 56-568, shall not apply to this Agreement or any other Project Agreement.

Section 17.11. Bankruptcy of Association. The Department and FD/MK each agrees that it shall not file or join in filing any involuntary petition in bankruptcy against the Association; provided that the foregoing covenant shall not apply in the event the Association (a) in any way challenges, disavows or questions the irrevocable and absolute nature of its assignment of Toll Revenues to the Department or (b) commits fraud or deceit against or adversely affecting the Department or FD/MK.

ARTICLE XVIII

RECORDS, REPORTS, WORK PRODUCT AND INTELLECTUAL PROPERTY

Section 18.1. Maintenance of Records.

(a) FD/MK shall file and maintain books, records, documents and information as provided in the Design-Build Contract.

(b) Association shall maintain or cause to be maintained proper books of records and accounts in which complete and correct entries shall be made of its transactions in accordance with Generally Accepted Accounting Principles.

Section 18.2. Public Records.

(a) Any Work Product the Department owns pursuant to the Design-Build Contract or otherwise, and any document of which the Department obtains a copy, may be considered public records under the Virginia Public Records Act, Section 42.1-76 through 42.1-91, Code of Virginia or Section 11-52 of the Code of Virginia or official records under the Virginia Freedom of Information Act, Section 2.1-340 through 2.1-346.1 of the Code of Virginia, and as such may be subject to public disclosure. The Department recognizes that certain Work Product the Department owns pursuant to the Design-Build Contract and certain documents of which the Department obtains a copy may contain information exempt from disclosure under Section 11-52 or 2.1-342(B), Code of Virginia, may constitute trade secrets as defined in Section 59.1-336, Code of Virginia, and may include confidential information which is otherwise subject to protection from misappropriation or disclosure. Should such records become the subject of a request for public disclosure, the Department shall respond as follows:

(i) The Department shall use reasonable efforts to immediately notify Operator of such request and the date by which it anticipates responding.

(ii) Operator must then assert in writing to the Department any claim that such records contain proprietary information that is exempt from disclosure under Section 11-52 or 3.1-342(B), Code of Virginia, or is subject to protection pursuant to Section 59.1-339, Code of Virginia, or other State law so that the Department may consider such assertion in responding to the requester.

(iii) If Operator fails to make such assertion within eight Days after the date the Department notifies Operator of its intended response, the Department shall have the right to make such disclosure.

(iv) If Operator makes a timely assertion and the Department in its sole and absolute discretion believes Operator has a valid claim that the requested

records contain proprietary information, trade secrets or confidential information, and thus are exempt from disclosure or otherwise protected under state law, the Department will deny the request for disclosure of such records or, upon consultation with Operator to agree upon a reasonable effort and legal cost, at Operator's expense, seek judicial declaration of the rights of the parties.

(v) If the Department's denial of a request for disclosure of records is challenged in court and the Department agrees to a request by the Operator to defend its position, Operator shall assist the Department in its defense and shall indemnify the Department for any and all damages assessed and costs (including the fees and costs of the Department's attorneys) the Department incurs in such defense, including any attorneys' fees assessed against the Department under Section 59.1-333.1 or 2.1-346, Code of Virginia.

(vi) If at any time, including prior to, during or after judicial consideration, the Department in its sole and absolute discretion believes Operator does not have a valid claim that the requested records contain proprietary information, trade secrets or confidential information, and thus are not exempt from disclosure or otherwise protected under State law, it shall so notify Operator no less than three Days prior to the date the Department intends to make the disclosure to allow it to take such action as it deems appropriate prior to disclosure. In no event shall the Department be liable to Operator as a result of any disclosure of such records by the Department pursuant to this **Section 18.2**.

(b) If Operator believes that any Work Product or any document subject to transmittal to or review by the Department under the terms of this Agreement or any other Project Agreement contains proprietary or confidential information or trade secrets that are exempt or protected from disclosure pursuant to State law, Operator shall use its best efforts to identify such information prior to such transmittal or review and it and the Department shall confer on appropriate means of ensuring compliance with applicable laws prior to transmittal or review. Upon the written request of either party, Operator and the Department shall mutually develop a protocol for the transmittal, review and disclosure of Work Product or other documents produced or obtained by Operator so as to avoid violations of any applicable law.

Section 18.3. Reporting Requirements and Inspection and Audit Rights.

(a) FD/MK shall deliver to the Department financial and narrative reports, statements, certifications, budgets and information as and when required under the Design-Build Contract.

(b) Association shall deliver to the Department, as and when produced or received, all financial, narrative, Consultant, Toll Consultant and other reports, statements, certifications, budgets and information which it produces or causes to be produced or which it receives from the Trustee pursuant to the provisions of the Indenture or from any other Person. In addition, the Association shall, from time to

time, furnish or cause to be furnished to the Department such information and statements as the Department may reasonably request for any purpose related to the Project, this Agreement or the other Project Agreements, including but not limited to compliance with the terms and conditions of this Agreement and the other Project Agreements.

(c) The Department shall have audit rights respecting FD/MK as set forth in Section 12.1 of the Design-Build Contract.

(d) The Department or its agents, auditors, attorneys and consultants, at Department's own expense, at any time upon 48 hours' prior written notice (or unannounced and without prior notice where there is good faith suspicion of fraud), may examine, copy, take extracts from and audit all the books and records of the Association related to the Project. In addition, the Department or its agents, auditors, attorneys and consultants, at Department's own expense, at any time upon 48 hours' prior written notice (or unannounced and without prior notice where there is good faith suspicion of fraud), may conduct a re-audit and observe the business operations of the Association to confirm the accuracy of books and records.

(e) Nothing contained in this Agreement or any other Project Agreement shall in any way limit the constitutional and statutory powers, duties and rights of elected state officials, including the independent rights of the State Auditor of Public Accounts, in carrying out his or her legal authority.

Section 18.4. Intellectual Property.

(a) FD/MK's responsibilities regarding procurement, installation, licensing of and escrow arrangements for Intellectual Property for the Project are set forth in the Design-Build Contract.

(b) The Association shall not have any, and disclaims all, right, title or interest in or to any Intellectual Property for the Project, all of which shall become and remain the sole property of the Department when installed and accepted.

ARTICLE XIX

RESERVED RIGHTS

Section 19.1. Exclusions from Operator's Interests. Operator's rights and interests in the Project and Project Right of Way shall be specifically limited only to such rights and interests which are necessary and required for Project Purposes. Operator's rights and interests specifically exclude all Reserved Rights.

Section 19.2. Department Reservation of Rights. All rights to own, lease, sell, assign, transfer, utilize, develop or take advantage of the Reserved Rights are hereby reserved to the Department; and FD/MK and Association shall not engage in any activity infringing upon the Reserved Rights. The Department at any time may devote, use or take advantage of the Reserved Rights for any public purpose without any financial participation whatsoever by FD/MK the Association or the Trustee. The Department hereby reserves to itself all ownership, development, maintenance, repair, replacement, operation, use and enjoyment of, and access to, the Reserved Rights. No Department activity or improvement respecting Reserved Rights shall materially interfere with the construction or operation of the Project.

Section 19.3. Disgorgement. If an Operator Default concerns a breach of the provisions of **Section 19.1 or 19.2**, in addition to any other remedies under this Agreement, the Department shall be entitled to disgorgement of all profits from the prohibited activity and to sole title to and ownership of the prohibited assets and improvements.

Section 19.4. Alternate Treatment of Reserved Rights. Notwithstanding **Sections 19.1, 19.2 and 19.3**, Department may elect in its sole discretion to undertake the development of improvements respecting Reserved Rights like Project Enhancements, in which case all the provisions of **Sections 9.1(a),(b) and (d)** shall apply.

ARTICLE XX

MISCELLANEOUS

Section 20.1. Assignment.

(a) Neither FD/MK nor the Association may, without the prior written consent of the Department, voluntarily or involuntarily assign, convey, transfer, pledge, mortgage or otherwise encumber its rights or interests under this Agreement or the other Project Agreements, except to the Trustee for the benefit of the holders of the Bonds and except for any lawful sale, assignment or transfer of the Contractor Bond.

(b) Notwithstanding **subsection (a)** above, FD/MK shall have the right and obligation to assign all its right and interest as Operator under this Agreement (but not the Design-Build Contract) to the Association upon the Transition Date, and shall cause the Association to assume all the obligations, duties and liabilities of FD/MK as Operator under this Agreement (but not the Design-Build Contract) first arising from and after the Transition Date, all in accordance with the provisions of the Project Financing Agreement. Upon execution and delivery of the Project Financing Agreement by all parties thereto and occurrence of the Transition Date, FD/MK shall be relieved of all obligations, duties and liabilities under this Agreement (but not the Design-Build Contract) first arising from and after the Transition Date.

(c) Any transfer of the right or practical ability to control the policies and decisions of FD/MK (except transfers occurring after the Final Acceptance Date) or the Association, whether due to transfer of partnership or membership interests, shares, beneficial interests or otherwise, shall constitute an assignment prohibited under **subsection (a)** above without the Department's prior written consent.

(d) The Department may transfer and assign its interests in the Project, this Agreement and any other Project Agreements to any other public agency or public entity as permitted by law, provided that the successor or assignee has assumed all of the Department's obligations, duties and liabilities under this Agreement and the Project Agreements then in effect, and has provided Operator with reasonable assurance of its legal and financial authority to honor and perform the same. The Department shall comply with limitations on conveyance of its interest in the Project set forth in Section 3.04, subsection 1(c), of Revenue Procedure 82-26, if and to the extent applicable.

(e) If either party changes its name, such party agrees to promptly furnish the other party with written notice of change of name and appropriate supporting documentation.

Section 20.2. No Gift or Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Project, Project Right of

Way or Work Product to the Department or the general public or for any public use or purpose whatsoever, or be deemed to create any rights in the Project, Project Right of Way or Work Product except as expressly set forth herein.

Section 20.3. Notices.

(a) Whenever under the provisions of this Agreement it shall be necessary or desirable for one party to serve any notice, request, demand, report or other communication on another party, the same shall be in writing and shall not be effective for any purpose unless and until actually received by the addressee or unless served:

(i) personally,

(ii) by independent, reputable, overnight commercial courier,

(iii) by facsimile transmission:

(A) where the transmitting party includes a cover sheet identifying the name, location and identity of the transmitting party, the phone number of the transmitting device, the date and time of transmission and the number of pages transmitted (including the cover page),

(B) where the transmitting device or receiving device records verification of receipt and the date and time of transmission receipt and the phone number of the other device, and

(C) where the facsimile transmission is immediately followed by service of the original of the subject item in the manner provided in **subsections (a)(i), (ii) or (iv)** hereof, or

(iv) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to FD/MK:

Mr. James Carroll
Fluor Daniel, Inc.
100 Fluor Daniel Drive
Greenville, South Carolina 29607
Fax: (864) 281-6868

With a copy to:

Richard Fierce, Esq.
Fluor Daniel, Inc.
100 Fluor Daniel Drive
Greenville, South Carolina 29607
Fax: (864) 281-6868

If to Association:	Pocahontas Parkway Association c/o Williams, Mullen,Christian & Dobbins Two James Center 1021 East Cary Street Richmond, Virginia 23219 Attn: Ralph L. "Bill" Axselle, Esq. Fax: (804) 783-6507
With a copy to:	R. Hart Lee, Esq. Williams, Mullen,Christian & Dobbins Two James Center 1021 East Cary Street Richmond, Virginia 23219 Fax: (804) 783-6507
If to the Department:	Virginia Department of Transportation 1401 East Broad Street Richmond, Virginia 23219 Attn: Commissioner Fax: (804) 786-6250
With a copy to:	James F. Hayes, Esq. Senior Assistant Attorney General 900 E. Main Street Richmond, Virginia 23219 Fax: (804) 786-9136
And to:	Geoffrey S. Yarema, Esq. Nossaman, Guthner, Knox & Elliott, LLP 445 S. Figueroa Street, 31st Floor Los Angeles, California 90071-6302 Fax: (213) 612-7801

(b) Any party may, from time to time, by notice in writing served upon the other party as aforesaid, designate an additional and/or a different mailing address in Virginia or an additional and/or a different person to whom all such notices, requests, demands, reports and communications are thereafter to be addressed. Any notice, request, demand, report or other communication served personally shall be deemed delivered upon receipt, if served by mail or independent courier shall be deemed delivered on the date of receipt as shown by the addressee's registry or certification receipt or on the date receipt at the appropriate address is refused, as shown on the records or manifest of the U.S. Postal Service or independent courier, and if served by facsimile transmission shall be deemed delivered on the date of receipt as shown on the received facsimile (provided the original is thereafter delivered as aforesaid).

Section 20.4. Binding Effect. Subject to the limitations of **Section 20.1**, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, successors and permitted assigns, and wherever a reference in this Agreement is made to any of the parties hereto, such reference also shall be deemed to include, wherever applicable, a reference to the legal representatives, successors and permitted assigns of such party, as if in every case so expressed.

Section 20.5. Relationship of Parties.

(a) The relationship of Operator to the Department shall be one of an independent contractor, not an agent, partner, joint venturer or employee, and the Department shall have no rights to direct or control the activities of Operator or any Operator Party.

(b) Officials, employees and agents of the Department shall in no event be considered employees, agents, partners or representatives of Operator or the Trustee.

(c) Department, acting reasonably, shall approve or disapprove amendments to the Association's restated Articles and Bylaws, copies of which are attached as **Exhibit M**. No purported amendment thereof shall be effective for any purpose unless and until the Department approves the same in writing.

Section 20.6. No Third Party Beneficiaries. Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the parties hereto toward, any person or entity not a party to this Agreement, except (a) rights expressly contained herein for the benefit of the Trustee and (b) the Association's rights set forth in **Section 20.15(a)**.

Section 20.7. Waiver.

(a) No waiver by any party of any right or remedy under this Agreement or the other Project Agreements shall be deemed to be a waiver of any other or subsequent right or remedy under this Agreement or the other Project Agreements. 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.

(b) 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 under this Agreement or any other Project Agreement, or to relieve the other party from the full performance of its obligations under this Agreement and the other Project Agreements.

(c) No waiver of any term, covenant or condition of this Agreement shall be valid unless in writing and signed by the obligee party.

(d) The acceptance of any payment or reimbursement by a party shall not: (i) waive any preceding or then-existing breach or default by the other party of any term, covenant or condition of this Agreement, other than the other party's prior failure to pay the particular amount or part thereof so accepted, regardless of the paid party's knowledge of such preceding or then-existing breach or default at the time of acceptance of such payment or reimbursement; or (ii) continue, extend or affect (A) the service of any notice, any suit, arbitration or other legal proceeding or final judgment, (B) any time within which the other party is required to perform any obligation or (C) any other notice or demand.

(e) No custom or practice between the parties in the administration of the terms of this Agreement shall be construed to waive or lessen the right of a party to insist upon performance by the other party in strict compliance with the terms of this Agreement.

Section 20.8. No Brokers. Each party represents and warrants that it has not dealt with any real estate or business opportunity broker or agent or any finder in connection with this Agreement. Each party agrees to indemnify, protect, defend with counsel acceptable to the other party and hold harmless the other party against any claim for commission, finder's fee or like compensation asserted by any real estate or business opportunity broker, agent, finder or other person claiming to have dealt with the indemnifying party in connection with this Agreement.

Section 20.9. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State applicable to contracts executed and to be performed within the State. Venue for any legal action arising out of this Agreement shall lie in the Circuit Court in the City of Richmond, Virginia, Division I.

Section 20.10. Use of Police Power. Nothing in this Agreement limits the authority of the Department to exercise its regulatory and police powers granted by law, including but not limited to its powers of condemnation with respect to all or any part of the Project, the Project Right of Way and any of Operator's rights hereunder. The parties waive any requirement by the State Corporation Commission to issue a declaratory judgment regarding condemnation pursuant to Title 56, Chapter 22, Section 56-568, Code of Virginia.

Section 20.11. Survival. All covenants, agreements, representations and warranties made in or pursuant to this Agreement shall be deemed continuing and made at and as of the date of this Agreement and at and as of all other applicable times during the Term. All covenants, agreements, representations and warranties made in or pursuant to this Agreement shall survive the expiration or earlier termination of this Agreement and shall not be waived by the execution and delivery of this Agreement, by

completion of construction, by any investigation by the Department or by any other event except a specific written waiver by the party against whom waiver is asserted.

Section 20.12. Subpoena. Except as provided for in Virginia Code Section 33.1-4, Operator may subpoena any Department personnel provided that Operator shall pay for such personnel's time at its fully burdened rate (including overhead and fringe benefits), together with all out-of-pocket expenses incurred, no later than 30 Days after Operator's receipt of an invoice reasonably documenting the amount of such time provided.

Section 20.13. Construction and Interpretation of Agreement.

(a) The language in all parts of this Agreement 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 this Agreement has been prepared jointly by the parties and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has been given the opportunity to independently review this Agreement with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

(b) If any term or provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefit by either party hereunder, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. It is the intention of the parties to this Agreement, and the parties hereto agree, that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, the parties in good faith shall supply as a part of this Agreement an enforceable clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible.

(c) 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.

(d) 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. 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 Articles and Sections refer to the Articles and Sections set forth in this Agreement. Unless otherwise stated in this Agreement or the Project Agreements, words which have well-known technical or construction industry meanings are used in this Agreement or the Project Agreements in accordance with such recognized meaning. All references to a subsection "above" or "below" refer to the denoted subsection within the Section in which the reference appears.

(e) 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.

(f) This Agreement, its exhibits and the other Project Agreements are intended to be complementary and consistent with each other and shall, to the maximum extent possible, be construed according to such intent. In the event of an irreconcilable conflict or inconsistency between the terms and conditions of this Agreement, the exhibits to this Agreement and/or the executed Project Agreements, the conflict or inconsistency shall be resolved by applying the following order of document precedence, except as provided otherwise in **Section 3.1(b)**:

Highest:	A.	Agreement and Exhibit A
	B.	Executed Project Agreements
Lowest:	C.	Other Exhibits

Section 20.14. 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.

Section 20.15. Entire Agreement; Amendment.

(a) THIS AGREEMENT AND THE PROJECT AGREEMENTS CONSTITUTE THE ENTIRE AND EXCLUSIVE AGREEMENT BETWEEN THE PARTIES RELATING TO THE SPECIFIC MATTERS COVERED HEREIN AND THEREIN. ALL PRIOR OR CONTEMPORANEOUS VERBAL OR WRITTEN AGREEMENTS, UNDERSTANDINGS, REPRESENTATIONS AND/OR PRACTICES RELATIVE TO THE FOREGOING ARE HEREBY SUPERSEDED, REVOKED AND RENDERED INEFFECTIVE FOR ANY PURPOSE. THIS AGREEMENT MAY BE ALTERED, AMENDED OR REVOKED ONLY BY AN INSTRUMENT IN WRITING SIGNED BY EACH PARTY HERETO, OR ITS PERMITTED SUCCESSOR OR ASSIGNEE (INCLUDING THE ASSOCIATION AS ASSIGNEE OF FD/MK AFTER THE TRANSITION DATE). IN ADDITION, PRIOR TO THE TRANSITION DATE ANY AMENDMENT TO THIS AGREEMENT WHICH WOULD MATERIALLY EXPAND THE

OBLIGATIONS OR MATERIALLY IMPAIR THE RIGHTS OF THE ASSOCIATION UNDER THIS AGREEMENT SHALL BE BINDING UPON THE ASSOCIATION ONLY IF IT HAS APPROVED SUCH AMENDMENT IN WRITING. NO VERBAL AGREEMENT OR IMPLIED COVENANT SHALL BE HELD TO VARY THE TERMS HEREOF, ANY STATUTE, LAW OR CUSTOM TO THE CONTRARY NOTWITHSTANDING.

(b) This Agreement and the other Project Agreements attempt to set forth in full all requirements applicable under the PPTA as to the study, planning, design, acquisition, development, construction, operation, maintenance, repair, management and financing of the Project and attempt to define in full the rights and responsibilities of each party in connection therewith. To the extent requirements and rights and responsibilities have not been addressed in this Agreement and the other Project Agreements, the parties agree to carry out their respective responsibilities in the spirit of cooperation contemplated by the PPTA, recognizing that they may not have defined in a sufficient detail or anticipated fully all activities necessary for the full implementation of the Project.

(c) If any provisions of this Agreement are rendered obsolete or ineffective in serving their purpose by change in law, passage of time, financing requirements or other future events or circumstances, the parties agree to negotiate in good faith appropriate amendments to or replacements of such provisions in order to restore and carry out the original purposes thereof to the extent practicable; provided, however, that neither party is obligated to agree to any amendment or replacement which would reduce its rights or enlarge its responsibilities under this Agreement in any material respect.

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this Agreement on the date first written above.

VIRGINIA DEPARTMENT OF TRANSPORTATION,
a department of the Commonwealth of Virginia

By: David R. Gehr
David R. Gehr
Commonwealth Transportation Commissioner

Fiscal Review:

By: Gregory A. Whirley
Gregory A. Whirley, Sr.
Controller

Legal Review:

By: _____
James F. Hayes, Esq.
Senior Assistant Attorney General

FD/MK LIMITED LIABILITY COMPANY

By: _____
James R. Carroll
President

Appendix C to
Consent to Assignment

COPY OF THE DIRECTIVE LETTERS

COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1401 EAST BROAD STREET
RICHMOND, 23219-2000

CHARLES D. NOTTINGHAM
COMMISSIONER

J. G. BROWDER, JR.
CHIEF ENGINEER

November 28, 2000

Herbert W. Morgan, Project Director
FD/MK Limited Liability Company
620 Moorefield Park Drive, Suite 210
Richmond, Virginia 23236

Directive Letter - Discretionary Directed Change
Route 895/I-295 Ramps

Dear Mr. Morgan:

This letter constitutes a Directive Letter in accordance with Section 19.3.1 of the Design-Build Contract dated as of June 3, 1998, as amended (the "Contract"), between the Virginia Department of Transportation (the "Department") and FD/MK Limited Liability Company (the "Contractor"), entered into pursuant to a Comprehensive Agreement dated as of June 3, 1998 (the "Comprehensive Agreement"), between the Department and the Contractor, related to the Route 895 Connector. Terms used but not defined herein shall have the meanings assigned thereto for purposes of the Contract.

This Directive Letter amends the terms and conditions of the Contract Documents to include the Scope of Services for Route 895/I-295 Ramps enclosed herewith including schedule for such work, and other particulars of the services to be provided as described in the individual subconsultants proposals also enclosed, in the Work covered by and subject to the Contract. Dave Wesson of the Department's residency office will be authorized to confirm that the enclosed Scope of Services work has been accomplished, with final acceptance to be in accordance with the terms and conditions of the Contract.

Inclusion of the enclosed Scope of Services in the Work constitutes a Discretionary Directed Change. Such Directed Change is to be completed for the amount of $7,407,598, payable by the Department from its own funds in accordance with the enclosed schedule, pursuant to Section 19.3.3.2 of the Contract, for which the Department should be billed separately.

Such Discretionary Directed Change will not extend the Guaranteed Completion Date of Route 895, set forth in Section 17.2.1 of the Contract, and will increase the Contract Price as provided herein accordance with Article 19 of the Contract. Upon acknowledgment and agreement on behalf of the Contractor, this Directive Letter constitutes authorization to proceed to accomplish the work described in the enclosed Scope of Services.

Please acknowledge receipt of this Directive Letter and FD/MK's agreement to the terms hereof, including without limitation the inclusion of the work described in the Scope of Services as Work covered by and subject to the Contract. Please return an executed copy of this letter to Mr. Frank Gee, State Construction Engineer, at your earliest convenience.

If you have any questions, please contact me at 786-2707 or Frank Gee at 786-2785.

Very truly yours,

J. G. Browder, Jr., Chief Engineer,
as Authorized Department Representative

ACKNOWLEDGED AND AGREED TO BY FD/MK, AS CONTRACTOR:

By: Herbert W. Morgan
Authorized FD/MK Representative

Dated: Nov 30, 2000

Enclosures

cc: Mr. Thomas F. Boyd, Assistant Commissioner for Finance
Mr. C. F. Gee, State Construction Engineer
Mr. R. C. Edwards, Contract Engineer
Mr. D. H. Wesson, Transportation Engineer Senior
Pocahontas Parkway Association, c/o Williams Mullen Clark & Dobbins

Directed Change #1/Item #1

COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1401 EAST BROAD STREET
RICHMOND, 23219-2000

CHARLES D. NOTTINGHAM
COMMISSIONER

J. G. BROWDER, JR.
CHIEF ENGINEER

November 28, 2000

Herbert W. Morgan, Project Director
FD/MK Limited Liability Company
620 Moorefield Park Drive, Suite 210
Richmond, Virginia 23236

Directive Letter - Discretionary Directed Change
Route 895 - Airport Connector Preliminary Engineering

Dear Mr. Morgan:

This letter constitutes a Directive Letter in accordance with Section 19.3.1 of the Design-Build Contract dated as of June 3, 1998, as amended (the "Contract"), between the Virginia Department of Transportation (the "Department") and FD/MK Limited Liability Company (the "Contractor"), entered into pursuant to a Comprehensive Agreement dated as of June 3, 1998 (the "Comprehensive Agreement"), between the Department and the Contractor, related to the Route 895 Connector. Terms used but not defined herein shall have the meanings assigned thereto for purposes of the Contract.

This Directive Letter amends the terms and conditions of the Contract Documents to include the Scope of Services for the Airport Connector Preliminary Engineering enclosed herewith, and other particulars of the services to be provided as described in the individual subconsultants proposals also enclosed including schedule for such work, in the Work covered by and subject to the Contract. Jimmy T. Mills of the Department's central office Location and Design Division will be authorized to confirm that the enclosed Scope of Services work has been accomplished, with final acceptance to be in accordance with the terms and conditions of the Contract.

Inclusion of the enclosed Scope of Services in the Work constitutes a Discretionary Directed Change. Such Directed Change is to be completed for an amount not to exceed $2,391,194, payable by the Department from its own funds in accordance with the enclosed schedule, pursuant to Section 19.3.3.2 of the Contract, for which the Department should be billed separately.

Such Discretionary Directed Change will not extend the Guara
895, set forth in Section 17.2.1 of the Contract, and will increase the Contr
herein only in accordance with Article 19 of the Contract. Upon acknowledgm
agreement on behalf of the Contractor, this Directive Letter constitutes authorizatio
to accomplish the work described in the enclosed Scope of Services. The work will be c
within the time limit described in the document.

Please acknowledge receipt of this Directive Letter and FD/MK's agreement to the terms hereof, including without limitation the inclusion of the work described in the Scope of Services as Work covered by and subject to the Contract. Please return an executed copy of this letter to Mr. Frank Gee, State Construction Engineer, at your earliest convenience.

If you have any questions, please contact me at 786-2707 or Frank Gee at 786-2785.

Very truly yours,

J. G. Browder, Jr.

J. G. Browder, Jr., Chief Engineer,
as Authorized Department Representative

ACKNOWLEDGED AND AGREED TO BY FD/MK, AS CONTRACTOR:

By: Herbert W. Morgan
Authorized FD/MK Representative

Dated: Nov. 30, 2000

Enclosures

cc: Mr. Thomas F. Boyd, Assistant Commissioner for Finance
Mr. C. F. Gee, State Construction Engineer
Mr. R. C. Edwards, Contract Engineer
Mr. D. H. Wesson, Transportation Engineer Senior
Pocahontas Parkway Association, c/o Williams Mullen Clark & Dobbins

Attn: Rich Fierce

COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1401 EAST BROAD STREET
RICHMOND, VIRGINIA 23219-2000

PHILIP A. SHUCET
COMMISSIONER

C. R. GEE
CHIEF OF OPERATIONS

RECEIVED
NOV 14 2002

November 12, 2002

Mr. Herbert W. Morgan, Project Director
FD/MK Limited Liability Company
620 Moorefield Park Drive, Suite 210
Richmond, Virginia 23236

Directive Letter - Discretionary Directed Change
Route 895 - Airport Connector

Dear Mr. Morgan:

Your letter of September 13, 2002 outlined several options for doing additional work on the Airport Connector project in conjunction with the Route 895 PPTA Comprehensive Agreement. Recognizing that the final cost of Route 895 is not yet completely determinable at this date, the Virginia Department of Transportation (VDOT) does not want to authorize all of the work as outlined in your letter. We do, however, wish to proceed with some of the work you outlined. The work on which we would like to proceed and the fixed cost associated therewith is outlined below:

1. Complete Design (100%) of the Airport Connector		$1,449,106
2. Right of Way Administrative Cost for all Right of Way Acquisition		466,950
3. FD/MK Overhead/Profit (Design and Right of Way) Overhead 15% Profit 10%	Subtotal:	479,014
		2,395,070
4. Right of Way Allowance – Land Value		3,883,191
	Total:	$6,278,261

The completion date for the work noted above is October 1, 2003. Once the final cost of Route 895 is known and we have the exact value of the funds available, VDOT may be in a position to proceed with other work as outlined in your September 13, 2002 letter with wetland mitigation and utility relocations having priority.

Mr. Herbert W. Morgan
Page Two
November 12, 2002

This letter constitutes a Directive Letter in accordance with Section 19.3.1 of the Design-Build Contract dated as of June 3, 1998, as amended (the "Contract"), between the Virginia Department of Transportation (the "Department") and FD/MK Limited Liability Company (the "Contractor"), entered into pursuant to a Comprehensive Agreement dated as of June 3, 1998 (the "Comprehensive Agreement"), between the Department and the Contractor, related to the Route 895 Connector. Terms used but not defined herein shall have the meanings assigned thereto for purposes of the Contract.

This Directive Letter amends the terms and conditions of the Contract Documents to include the completion of design and the acquisition of right of way for the Airport Connector as outlined above. The work is covered by and subject to the terms, conditions, standards and requirements of the Comprehensive Agreement and Design/Build Contract. Final acceptance will be in accordance with the terms and conditions of the Contract.

This Directed Change is to be completed for an amount not to exceed $6,278,261, payable by the Department in accordance with a schedule to be agreed upon, pursuant to Section [redacted] the Contract, for which the Department should be billed separately.

Such Discretionary Directed Change will not extend the Guaranteed Completion Date, set forth in Section 17.2.1 of the Contract, and will increase the Contract Price as provided herein only in accordance with Article 19 of the Contract. Upon acknowledgment and agreement on behalf of the Contractor, this Directive Letter constitutes authorization to proceed to accomplish the work described in the enclosed Scope of Services.

Please acknowledge receipt of this Directive Letter and FD/MK's agreement to the terms hereof, including without limitation the inclusion of the work described herein and covered by and subject to the Contract. Please return an executed copy of this letter to me at your earliest convenience.

If you have any questions, please contact me at 786-2707.

Sincerely,

C. F. Gee
Chief of Operations
As Authorized Department Representative

Mr. Herbert W. Morgan
Page Three
November 12, 2002

ACKNOWLEDGED AND AGREED TO BY FD/MK, AS CONTRACTOR:

By: _____
Authorized FD/MK Representative

Dated: 11/25/02

Enclosures

cc: Mr. Philip A. Shucet, Commissioner
Ms. Barbara Reese, Chief Financial Officer
Mr. D. W. Nester, Acting State Construction Engineer
Mr. R. C. Edwards, Contract Engineer
Mr. D. H. Wesson, Transportation Engineer Senior
Pocahontas Parkway Association, c/o Williams Mullen Clark & Dobbins

COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1401 EAST BROAD STREET
RICHMOND, VIRGINIA 23219-2000

PHILIP A. SHUCET
COMMISSIONER

C. F. GEE, P. E.
CHIEF ENGINEER OF OPERATIONS

April 22, 2003

Mr. Herbert W. Morgan, Project Director
FD/MK Limited Liability Company
620 Moorefield Park Drive, Suite 210
Richmond, Virginia 23236

Directive Letter – Discretionary Directed Change
Britton Road Over Route 895

Dear Mr. Morgan:

This letter constitutes a Directive Letter in accordance with Section 19.3.1 of the Design-Build Contract dated of June 3, 1998, as amended (the "Contract"), between the Virginia Department of Transportation (the "Department") and FD/MK Limited Liability Company (the "Contractor"), entered into pursuant to a Comprehensive Agreement dated as of June 3, 1998 (the "Comprehensive Agreement"), between the Department and the Contractor, related to the Route 895 Connector. Terms used but not defined herein shall have the meanings assigned thereto for purposes of the Contract.

This Directive Letter amends the terms and conditions of the Contract Documents to include the Scope of Services for the Design and Construction of Britton Road over Route 895, and other particulars of the services to be provided as described in your letter of October 3, 2000 and the County/State Agreement executed November 14, 2000, which were included as part of our Directed Letter dated November 16,2000. This letter completely replaces the Directive Letter dated November 16, 2000.

Inclusion of the enclosed Scope of Services in the Work constitutes a Discretionary Directed Change. Such Directed Change is to be completed for an amount not to exceed $4,600,000 payable by VDOT from its own funds in accordance with a schedule which will be provided before the first progress payment, pursuant to Section 19.3.3.2 of the Contract, for which VOT should be billed separately.

This Directive Letter is limited to the commitment for the construction of the Britton Road overpass and approaches only. All work and activities related to this Discretionary Directed Change shall be completed on or before June 1, 2004.

June 14, 2004 AS PER DISCUSSION WITH DAVE WESSON AND SCOTT RIFLET (FD/MK) ON 5/1/2003.
SPR

Mr. Herbert W. Morgan
Page Two
April 22, 2003

Please acknowledge receipt of this Directive Letter and FD/MK's agreement to the terms hereof, including without limitation the inclusion of the work described in the Scope of Services as Work covered by and subject to the Contract. Please return an executed copy of this letter to Mr. Daniel Liston, State Construction Management Engineer, at your earliest convenience. **You may consider the execution of this letter and the providing of the standard performance and payment bonds in accordance with Section 103.05 of the 1997 Virginia Department of Transportation Road and Bridge Specification your authorization to proceed to accomplish this work.**

If you have any questions, please contact me at 786-2707 or Robert C. Edwards at 786-2356.

Sincerely,

C. F. Gee, P.E., Chief Engineer of Operations,
as Authorized Department Representative

ACKNOWLEDGED AND
AGREED TO BY FD/MK,
AS CONTRACTOR:

By: Herbert W. Morgan
Authorized FD/MK Representative

Dated: May 1, 2003

Enclosures
Copy: Pocahontas Parkway Association, c/o Williams Mullen Clark & Dobbins
Ms. Barbara Reese Chief Financial Officer
Mr. Daniel Liston, State Construction Management Engineer
Mr. R. C. Edwards, Assistant Construction Manager
Mr. Robert Prezioso Resident Engineer
Mr. D. H. Wesson, Transportation Engineer Senior

Scope of Service
Britton Road Over pass
Henrico County Project Number
55208 – 704 – 255 – 00

Project Description: Route 895 in Henrico County, Virginia intersects the existing Britton Road at station 263+02.56 (Mainline). During the construction of Route 895, installation of cul-de-sacs at each side of Route 895 discontinued Britton Road. Henrico County proposed to re-establish continuity of Britton Road with a grade separation structure over Route 895.

Greenhorne & O'Mara, Inc. (G&O) in cooperation with FD/MK, LLC, the Virginia Department of Transportation (VDOT) and Henrico County, will provide Engineering Design Services to accomplish the above objective for this project. Phase I of these services including an alignment study, Stage I bridge design including evaluation of structures types and cost analysis for each consideration. This report summarizes the results of the Stage I bridge design study.

Site Description: The Route 895 Connector is a limited access highway that connects Route 150/I-95 in Chesterfield County to I-295 in Henrico County. Prior to the construction of Route 895, Britton Road provided access between Charles City Road and Darbytown Road. The existing Britton Road is18 feet wide and carries two lanes of traffic.

Currently, Britton Road is at the same grade as Route 895. This proposed to raise the profile of Britton Road above Route 895 to accommodate the grade separation structure. Residential houses with direct access to Britton Road are located on both side of the road. Britton Road intersects Route 895 at an angle, resulting in an approximate skew of 30 degrees.

Design Parameters: The proposed bridge and approaches will meet the requirements for a rural major collector. As such, the proposed structure will provide for two 12' lanes and 4'-2" shoulders, resulting in a clear roadway width of 32'-4". The out to out width of the structure is 36'-0". The design speed for Britton Road is 50 miles per hour. Horizontal clearance for Route 895 will meet the requirements for a rural principal arterial. A minimum vertical clearance of 16'-6" will be provided.

The Live Load capacity for the proposed bridge shall in accordance with HS-20 – 44 loading and alternate military utilizing service load design (allowable stress design). The proposed bridge shall be designed and constructed in accordance with the plans (plan no 282-71) approved by the Department on December 6, 2001

COPIES:

Fluor Daniel, Inc.
Attn: Richard Fierce, Esq.
100 Fluor Daniel Drive
Greenville, South Carolina 29607

FD/MK
895 Connector Project
Attn: Scott Risley
2000 Chippenham Parkway
Richmond, Virginia 23234

VDOT:

Mal Kerley
Barbara Reese
Tom Hawthorne
Chris Winstead
~~Deborah Brown~~
Robbie Prezioso
Dave Wesson
Tom Pelnik

AG:

Rick Walton

EXHIBIT A

DEFINITIONS

DEFINITIONS

Account or **Accounts** means any one or more of the accounts from time to time created in any of the Funds established by the Indenture.

Accountant means any nationally recognized certified public accountant or firm of certified public accountants or accounting corporation of recognized experience and qualifications, selected by the Association, and may be the accountant or firm of accountants that regularly audits the books of the Association.

Accountant's Certificate means a certificate or opinion signed by the Accountant.

Accreted Value for Bonds of any Series shall have the meaning set forth in the Supplemental Indenture authorizing the issuance of such Series.

Aggregate Debt Service means, for any Fiscal Year or other 12-month period, as of the date of calculation, the sum of the amounts of Debt Service for such Fiscal Year or other 12-month period. In determining Aggregate Debt Service on Second Tier Subordinate Bonds for any Fiscal Year or other 12-month period, such Aggregate Debt Service shall be the sum of monthly payments during such Fiscal Year or other 12-month period assuming that such monthly payments are calculated to result in full amortization in equal, consecutive combined principal and interest payments at an interest rate equal to the higher of the actual stated interest rate or the maximum interest rate for a term equal to the remaining term of the applicable Second Tier Subordinate Bonds assuming the original term was 30 years.

Agreement Date, for purposes of the Comprehensive Agreement, means the date written on the cover page of the Comprehensive Agreement, and for purposes of the Design-Build Contract, means the date written on the cover page of the Design-Build Contract.

Amortized Value means the value of an Investment Security calculated by adding the amount of the premium paid upon acquisition to the par value of the Investment Security or deducting the amount of the discount received upon acquisition from the par value of the Investment Security, as the case may be, after such premium or discount has been amortized according to Generally Accepted Accounting Principles for the number of days since the acquisition of the Investment Security.

Annual Budget means the operating plan and budget for each Fiscal Year of the Association prepared by Association pursuant to Section 8.5(a) of the Comprehensive Agreement and Section 717 of the Master Indenture and

approved by Department pursuant to Section 8.5(b) of the Comprehensive Agreement and Section 711 of the Master Indenture.

Association means Pocahontas Parkway Association, a Virginia nonstock, nonprofit corporation, and its permitted successors and assigns, and means the "Issuer" in the context of the Indenture.

Association Default means any of the events listed in Section 17.4 of the Comprehensive Agreement.

Association Indemnitee means and includes the Association and all of its affiliates and subsidiaries, and each of their respective members, partners, managers, directors, officers, employees, authorized agents and authorized representatives.

Association Party means and includes the Association and any director, officer, employee, agent, contractor (other than Department), subcontractor (other than Department) at any tier or any representative of the Association.

Authenticating Agent means any bank or trust company or national or state banking association designated to authenticate the Bonds of any Series on behalf of the Issuer or the Trustee, as provided by any Supplemental Indenture, and its successor or successors.

Authorized Association Representative or Authorized Issuer Representative means any person designated to act on behalf of the Association or the Issuer by a certificate signed by its President or any Vice President and filed with Department, the Trustee and FD/MK.

Authorized Department Representative means any person designated to act on behalf of Department by a certificate signed by the Commissioner and filed with FD/MK, the Trustee and the Association.

Authorized FD/MK Representative means any person designated to act on behalf of FD/MK by a certificate signed by its President or any Vice President and filed with Department, the Trustee and the Association.

Available Construction Fund Amount means the amount of funds in the Construction Fund currently available to pay Costs of the Project, which amount shall equal at any given time of calculation (a) the funds then remaining in the Construction Fund, plus (b) interest and profits earned and to be earned, but not yet credited to the Construction Fund, under the investment agreement or agreements under which funds in the Construction Fund are invested, excluding interest and profits earned and to be earned and required to be, but not yet, credited to the Series 1998D Bond Proceeds Account, to the Rebate Fund, to any Account for the purpose of paying interest on any Series of Bonds or to the Retainage Account, minus (c) all amounts deposited in or credited to any

Account of the Construction Fund for the purpose of paying interest on any Series of Bonds, minus (d) all funds in the Series 1998D Bond Proceeds Account reserved for payment of costs of promoting, marketing and advertising the Project and its opening to the public incurred prior to the commencement of revenue operations on the Project, minus (e) interest and profits deposited in or credited to the Retainage Account and the Series 1998D Bond Proceeds Account.

AVI means automatic vehicle identification equipment used as part of ETTM Equipment.

Betterment means upgrading or expanding the capacity of a Utility facility being relocated that is not attributable to construction of the Project or that is made solely for the benefit of and at the election of the Utility Owner. The primary aim of Betterment is to make the Utility facility more useful, functional, durable, efficient or of greater capacity. However, the term "Betterment" shall not include modifications to a Utility facility which enable achievement of greater usefulness, functionality, durability, efficiency or capacity at costs equal to or less than the costs of a "like-for-like" replacement or relocation.

Board means the board of directors of the Association, or any successor in function.

Bond or **Bonds** means any bond or bonds, as the case may be, authenticated and delivered under and pursuant to the Indenture, including any Tax-Exempt Bond or Bonds, and the SIB Bond and the Contractor Bond.

Bond Counsel means Hunton & Williams or any other attorney or firm of attorneys, selected by the Issuer and acceptable to the Trustee and Department, whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

Bond Owner, Owner of Bonds or **Owner** means, when used with respect to Bonds, the registered owner of any Bond.

Bridge Foundation Work means that portion of the bridge substructures for all Project bridges from the top of the footing down into the support material for the structure. This work shall include all materials, labor, equipment and incidentals necessary to complete the work. It includes, but is not limited to, structure excavation, form/false work, hydraulic cement concrete, reinforcing steel, piles and drill shafts with their respective associated testing.

Business Day means any Day other than a Saturday, Sunday or other day on which The New York Stock Exchange or banks are authorized or required to close in New York, New York or Richmond, Virginia.

Capitalized Interest Account means any Account into which capitalized interest with respect to a Series of Bonds is to be deposited as provided for in a Supplemental Indenture.

Change Order means a written amendment to the terms and conditions of the Contract Documents issued in accordance with Article 19 of the Design-Build Contract.

Claims means any and all claims, disputes, disagreements, causes of action, demands, suits, proceedings, damages, injuries, liabilities, obligations, losses, costs and expenses.

Code means the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations proposed or in effect with respect thereto.

Commissioner means the Commonwealth Transportation Commissioner or any successor in function.

Competitive Transportation Facilities means any State Highway, expressway or freeway crossing of the James River (a) which is within three miles of the centerline of the Project's bridge crossing of the James River, (b) which is first placed into service after the Agreement Date and (c) the operation of which could reasonably be foreseen to have a materially adverse impact on the ability of Association to cover Debt Service and to observe its covenants under the Indenture.

Completion Bonds means Bonds issued pursuant to Section 302.3(a) of the Master Indenture.

Completion Guaranty means the Guaranty of Performance and Completion issued by FC, MKC (Delaware) and MKC (Ohio) on the Agreement Date in the form of Exhibit D to the Comprehensive Agreement, jointly and severally guaranteeing payment, performance and completion of all of FD/MK's obligations under the Comprehensive Agreement, the Project Financing Agreement and the Design-Build Contract.

Compliance Order means any written order of Department, issued after the Final Acceptance Date, which directs the Association to undertake certain improvements to the Project (a) to conform to changes in safety standards or methodologies agreed to or adopted by Department for similar portions of State Highways, or (b) to correct a specific safety condition affecting the Project which Department has determined to exist by investigation or analysis.

Compounding Date for Bonds of any Series shall have the meaning set forth in the Supplemental Indenture authorizing the issuance of such Series.

Comprehensive Agreement means the Comprehensive Agreement to Develop and Operate Route 895 Connector between FD/MK and Department dated as of June 3, 1998, and all exhibits thereto, as supplemented or amended from time to time.

Conformity means compliance with the most stringent customary manufacturing and construction tolerances where working tolerances are not specified. Where working tolerances are specified, conformity means compliance with the most stringent of such tolerances.

Construction Documents means all Shop Drawings and Working Drawings, catalog cuts and samples necessary for construction of the Project in accordance with the Contract Documents and to inspect that construction.

Construction Fund means the Route 895 Connector Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture, and includes any separate Accounts or Subaccounts established by the terms of any Supplemental Indenture or any agreement pursuant thereto.

Construction Segment means each or any segment of the Project which Department and FD/MK designate pursuant to Article 13 of the Design-Build Contract for the purpose of scheduling construction.

Construction Traffic Management Plan means the plan for traffic management submitted and approved in accordance with Section 9.1 of the Design-Build Contract.

Consultant means any Person at the time retained by or on behalf of the Association (or, to the extent specifically provided in the Indenture or in any Supplemental Indenture, by or on behalf of the Trustee or Department) for the benefit of the Bond Owners to carry out the duties imposed by or pursuant to the Indenture or a Supplemental Indenture, which Person shall be experienced and have a national and favorable reputation in the matters for which such Person is so employed.

Consulting Engineer means any Consultant with expertise in engineering. The Consulting Engineer may be an employee of Department and such employee need not have a national reputation.

Contingency means the amount available for payment of certain Costs of the Project in excess of the Contract Price or Oversight Budget, as more specifically described in Section 14.3 of the Design-Build Contract.

Continuing Disclosure Agreement means, collectively, the Continuing Disclosure Agreement between the Association and the Trustee and the Continuing Disclosure Agreement between FD/MK and the Trustee, each dated as of July 1, 1998.

Contract Documents means the Design-Build Contract, including all appendices, the Scope of Work, the Standard Specifications, the Preliminary Engineering (subject to Contractor's obligation to provide the Plans and Specifications free of any errors, omissions, inconsistencies and other defects which may be contained in the Preliminary Engineering) and the Plans and Specifications, including all amendments to any of the foregoing and all Change Orders issued.

Contractor means FD/MK.

Contractor Bond means the Series 1998E Bond issued by the Association to FD/MK under the Indenture and in accordance with the Contractor Loan Agreement on the Financial Closing Date and evidencing advances, if any, under the Contractor Loan Agreement, and any and all amendments and supplements thereto.

Contractor Claim means a separate demand by Contractor for (a) a time extension which is disputed by Department, or (b) payment of money or damages arising from work done by or on behalf of Contractor in connection with the Design-Build Contract which is disputed by Department. A Contractor Claim will cease to be a Contractor Claim upon resolution thereof, including resolution by withdrawal or release thereof or delivery of a Change Order or Design-Build Contract amendment signed by all parties.

Contractor Bond Draw Request means a draw request from the Trustee to FD/MK on the Draw Request and Certificate form attached as Exhibit 3 to the Master Indenture.

Contractor Loan Agreement means the Loan Agreement among FD/MK the Association in the form of Exhibit I to the Comprehensive Agreement, and any and all amendments and supplements thereto.

Contractor Party means and includes Contractor, any Related Party and any member company, manager, partner, director, officer, employee, agent, contractor (other than Department), subcontractor (other than Department) at any tier or any representative of Contractor or any Related Party.

Contract Price shall have the meaning set forth in Section 14.1.1 of the Design-Build Contract.

Costs of the Project means the following (provided, however, that if such costs are to be paid out of the proceeds of Tax-Exempt Bonds, "Costs of the Project" shall include only those costs permitted by the Code and which are in compliance with Section 706 of the Indenture):

(a) all amounts payable under the Design-Build Contract and all other contractors' fees and charges, the cost of labor, services, materials and

supplies used or furnished in site improvement and construction, training and testing costs, the cost of purchasing and installing machinery, equipment, facilities, rolling stock and ancillary items, and the cost of utility services;

(b) the cost of acquiring by purchase, and the amount of any deposit in court or award or final judgment in, or any settlement or compromise of, any proceeding to acquire by eminent domain, such lands, property, property rights, rights of way, easements, franchises and other interests as may be deemed necessary or convenient, options and partial payments thereon, the cost of demolishing or removing or relocating any buildings or structures or land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the amount of any incidental or consequent damages and the amount of any legal costs associated with such acquisition;

(c) the costs of preparing surveys, cost estimates, appraisals, plans and specifications (including any preliminary study or planning or any aspect thereof), traffic revenue studies fees for architectural, engineering, supervisory and consulting services, planning and development costs, the costs of obtaining governmental or regulatory permits, licenses, franchises and approvals, and any other fees or expenses necessary to establishing feasibility or practicability;

(d) Department's costs of services described in Sections 10.2(b) and (c) of the Comprehensive Agreement.

(e) Operating Expenses and amounts required to be deposited to the Renewal and Replacement Fund;

(f) to the extent not paid by the contractor, premiums of all insurance and surety and payment bonds required to be maintained, all claims and expenses relating to injury and damage, and casualty and liability insurance premiums in connection with insurance against loss from such claims;

(g) all federal, state and local taxes and payments in lieu of taxes legally required, or deemed advisable by the Issuer;

(h) interest to accrue on the Bonds during design and construction of the Project plus the time period thereafter, if any, covered by funds on deposit in the Capitalized Interest Account under the Indenture, and interest accrued during design and construction of the Project on other obligations of the Issuer to finance Costs of the Project;

(i) to the extent provided by Supplemental Indenture, any amount otherwise required to pay principal or Redemption Price of any Bonds;

(j) any amount required to fund or maintain the Debt Service Reserve Fund;

(k) repayment of all temporary borrowings incurred by or on behalf of, or advances made by or on behalf of, the Issuer in connection with the Project;

(l) Costs of Issuance, to the extent not otherwise described in this definition;

(m) all items of expense relating to any guarantee, bond insurance policy or Related Financial Transaction, to the extent not otherwise described in this definition;

(n) all amounts payable by Department or the Association under the Design-Build Contract or any other contract, agreement or other arrangement relating to the acquisition, design, construction and equipping of the Project; and

(o) all other costs and expenses relating to the acquisition, design, construction and equipping of the Project, including, but not limited to, costs of environmental mitigation and remediation.

Notwithstanding the foregoing, Costs of the Project shall not include any interest on debt (except as provided otherwise in subsection (h) above) or repayment of principal in respect of debt, returns on or of capital, costs funded from Reserve Accounts or Current Expenses. Costs of the Project shall be reduced by an amount equal to the sum of (i) the aggregate amount of grants of cash and (ii) the costs of goods and/or services in kind provided to Operator and used by Operator to pay Costs of the Project and which Operator has no legal obligation to repay. Costs of the Project also shall be reduced by the amount of any insurance proceeds, judgments and awards, including but not limited to condemnation awards, Operator receives on account of or in connection with previously incurred Costs of the Project.

Costs of Issuance means the items of expense relating to the authorization, sale and issuance of Bonds, which items of expense may include, without limitation: travel expenses; printing costs; costs of reproducing documents; computer fees and expenses; filing and recording fees; initial fees and charges of the Trustee, Registrar, Paying Agent, and other Fiduciaries; initial fees and charges of banks, insurers or other parties pursuant to guarantees, bond insurance policies and Related Financial Transactions; bond discounts; fees and expenses of underwriters; legal fees and charges; consulting fees and charges including costs of traffic studies and other feasibility studies conducted in connection with the sale of the Bonds; auditing fees and expense; financial advisor's fees and charges; costs of credit ratings; insurance premiums; fees and charges for the execution, transportation and safekeeping of Bonds; and any other administrative or other costs of issuing such Bonds and investing the Bond proceeds.

CPM/Payment Schedule means the most current schedule for the Project approved by Department as described in Section 13.3 of the Design-Build Contract.

Critical Path means the longest non-intermittent path between the first and the last event of the Project shown on the CPM/Payment Schedule (or, if more than one such path exists, each such path).

CTB means the Commonwealth Transportation Board, a state board of the State affiliated with the Department of Transportation.

Current Expenses means the Association's and/or Department's current out-of-pocket expenses of management, administration, maintenance, repair, preservation and operation of the Project and shall include, without limiting the generality of the foregoing, all expenses:

(a) to establish, market, collect, protect, adjust, transfer and account for tolls;

(b) to pay premiums and reserves for insurance;

(c) of management, administration and engineering relating to maintenance, repair and operation of the Project;

(d) of police services and incident response;

(e) of the Trustee and any securities depository;

(f) of legal services relating to Project management and operation;

(g) of marketing, promotion and advertising;

(h) to pay sales and use taxes, property taxes and any other taxes, fees, charges or levies (not based on income or revenue) imposed by a governmental entity and directly related to the Project or Project Right of Way or the operation thereof;

(i) of administering and maintaining the corporate existence of Association, and of administering Association's compliance with its obligations under the Project Agreements;

(j) compensation due to Department under Section 8.2(e) of the Comprehensive Agreement or for services, including Oversight Services, rendered after the Opening Date to the extent provided in Section 10.2 of the Comprehensive Agreement; and

(k) otherwise required or permitted to be paid by the Association or Department under the provisions of the Indenture, the Comprehensive Agreement or by law for management and operation of the Project.

Notwithstanding the foregoing, "Current Expenses" shall not include payments made by the Association or the Trustee to any reserve accounts under the Indenture, any expenses of Extraordinary Maintenance and Repair, or any payments of Debt Service.

Custom Software means (a) all Software and associated documentation that is first conceived or first actually reduced to practice in connection with development of the Project, (b) all revisions, modifications, derivations, translations, abridgments, condensations and expansions of such Software or other forms in which such Software may be recast, transformed or adapted, and (c) all compilations that incorporate the work or matter described in subsection (b) above.

Days means calendar days, unless otherwise designated.

Debt Service means, with respect to any particular Fiscal Year or other 12-month period, and as of any calculation date, an amount equal to the sum of:

(a) all principal of and interest on the applicable Outstanding Bonds, that is payable during such period; and

(b) the Redemption Price of such Outstanding Bonds payable during such period with respect to any Outstanding Bonds that are to be redeemed during such period pursuant to mandatory redemption provisions or pursuant to optional redemption provisions that have been exercised by the Issuer as of the calculation date.

For purposes of this definition:

(1) Debt Service shall not include the principal and Redemption Price of and interest on Outstanding Bonds to the extent the same is to be paid from proceeds of Bonds or other funds held by the Trustee or an escrow agent for the benefit of the Owners of Outstanding Bonds pursuant to Section 502 of the Indenture, and investment earnings on such proceeds or other funds.

(2) Interest paid and payable on Bonds with respect to which a Related Financial Transaction is in effect shall be determined by taking into account (in a manner that does not result in the duplication of payment requirements): (i) regularly scheduled payments due pursuant to such transaction so long as no failure to pay or event of default under such transaction has occurred and is continuing and (ii) upon termination of such transaction (by reason of an event of default or otherwise), amounts actually paid with respect to the termination of such transaction.

Debt Service Fund means the Route 895 Connector Toll Road Revenue Bond Debt Service Fund established by Section 502 of the Indenture.

Debt Service Reserve Fund means the Route 895 Connector Toll Road Revenue Bond Debt Service Reserve Fund established by Section 502 of the Indenture.

Debt Service Reserve Fund Requirement means the Senior Bonds Debt Service Reserve Account Requirement and First Tier Subordinate Bonds Debt Service Reserve Account Requirement.

Defeasance Investment Securities means any one or more of the following securities, if and to the extent the same are, at the time acquired, Investment Securities: (i) non-callable securities which are direct obligations of, or which are unconditionally guaranteed by, the United States; and (ii) any other security approved in writing by each Rating Agency.

Defect means, with respect to each element or aspect of the Work for which acceptable tolerances are specified in the Contract Documents or Reference Documents, any such element or aspect not conforming to such specified tolerances, and with respect to each element or aspect of the Work for which acceptable tolerances are not specified in the Contract Documents or Reference Documents, any such element or aspect not conforming to industry standards applicable thereto as of the time such element or aspect of the Work is undertaken; provided that in all instances "Defect" includes any element or aspect of the Work not conforming to the Design-Build Contract, Plans and Specifications, Laws, Regulations and Ordinances or Regulatory Approvals.

Department means the Virginia Department of Transportation, a department of the State, and any other State agency succeeding to the powers, authorities and responsibilities of Department invoked by or under the Comprehensive Agreement.

Department Capital Cost Savings Account means the Department Capital Cost Savings Account of the Route 895 Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture.

Department-Caused Delays means unavoidable delays, to the extent that they affect a Critical Path, arising from the following matters and no others: (a) a suspension order pursuant to Section 20.1 of the Design-Build Contract (but not exceeding 24 hours), (b) Directed Changes, (c) failure of Department to provide responses to submittals and matters for which response by such Person is required, within the time periods indicated in the Contract Documents, (d) uncovering, removing and restoring Work, to the extent provided in Section 5.2.2.5 of the Design-Build Contract, and (e) any improper failure to act by Department within a reasonable time after delivery of notice by Contractor to Department requesting such action. Any court order to suspend Work shall not

be considered a Department-Caused Delay (although it may qualify as a Force Majeure event) despite the fact that Department may specifically direct Contractor to comply with the court order.

Department Default shall have the meaning set forth in Section 17.7 of the Comprehensive Agreement.

Department Standards means the requirements applicable to performance of the Work contained in the manuals, standards and procedures set forth in the Reference Documents.

Design-Build Contract means the Design-Build Contract between Department and FD/MK dated as of June 3, 1998, a copy of which is attached to the Comprehensive Agreement as Exhibit C, and any and all amendments and supplements thereto.

Differing Site Condition means any permanent condition on, within, under or of the Project Right of Way (such as but not limited to presence of Hazardous Substances or archaeological, paleontological, biological or cultural resources) which is materially different from (a) that represented by the data and information provided or reasonably available to Contractor as of the Agreement Date or (b) that which would have been discoverable by reasonable site investigation prior to the Agreement Date in accordance with recognized industry standards, provided that subsection (b) above shall not apply in determining whether any change in location of the Plume is a Differing Site Condition. A Differing Site Condition shall be deemed to include all manifestations of the same condition.[1]

Directed Change means any change in the Work (including changes in the standards applicable to the Work) which Department has directed Contractor to perform by Directive Letter pursuant to Section 19.3.1 of the Design-Build Contract or by Change Order under Section 19.3.2 of the Design-Build Contract. The term shall also include changes in the Work which are directly attributable to delays caused by bad faith actions, active interference, gross negligence or comparable tortious conduct by Department. The fact that Department has delivered a Directive Letter does not necessarily mean that a change in the Work has occurred.

Directive Letter means each letter issued by Department pursuant to Section 19.3.1 of the Design-Build Contract.

1/ For example, if a given geologic formation is continuous and affects the Project Right of Way in more than one location, all such locations are together part of the same "condition." Conversely, if, for example, a location is affected by a geologic fault and a nearby location is affected by a rock formation, each would be a separate "condition." Similarly, each and every discrete archeological site would be a separate "condition."

Discretionary Directed Change means any Directed Change other than a Safety Directed Change.

Draft Plans and Specifications means all drawings (including plans, elevations, sections, details and diagrams) furnished by Contractor showing the sizes, shapes and location of component elements comprising the Project and all specifications, reports, calculations, records and submittals necessary for design of the Project furnished by Contractor as described in Article 3 of the Design-Build Contract.

Draw Request means a draw request from FD/MK on the Draw Request and Certificate form attached as Exhibit 1 to the Master Indenture.

EIS means that certain signed final environmental impact statement, record of decision and re-evaluation for the Project prepared and approved by FHWA in 1994.

Environmental Laws means all Laws, Regulations and Ordinances now or hereafter in effect relating to the environment or to emissions, discharges, releases or threatened releases of Hazardous Substances into the environment including into the air, surface water or ground water or onto land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances or otherwise relating to the protection of public health, public welfare or the natural environment (including protection of nonhuman forms of life, land, surface water, groundwater and air) including the statutes listed in the definition of Hazardous Substances; the National Environmental Policy Act, as amended, 42 U.S.C. §§ 4321 et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. §§ 651 et seq.; the Hazardous Materials Transportation Act, as amended, 49 App. U.S.C. §§ 1801 et seq.; the Endangered Species Act, as amended, 16 U.S.C. §§ 1531 et seq.; the Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq.; and the Migratory Bird Treaty Act, 16 U.S.C. §§ 703 et seq.

Escrow Material means all Source Code and Source Code Documentation with respect to Proprietary Software, including all relevant commentary, explanations and other documentation, as well as instructions to compile such Source Code, plus all modifications, additions or substitutions made to such Source Code and Source Code Documentation by the Proprietary Software supplier.

ETTM means electronic toll and traffic management.

ETTM Data means all data generated by or accumulated in connection with the operation of the ETTM System, including but not limited to customer lists, customer identification numbers, customer account information and billing records and other customer specific information, and including but not limited to

use and enforcement data, origin and destination information, ETTM performance statistics, and real time traffic flow information.

ETTM Equipment means the AVI equipment; video monitoring equipment; manual, automatic and electronic toll collection equipment; the transportation management system equipment; communications equipment; and all other computer hardware necessary to meet the performance specifications for ETTM set forth in the Contract Documents.

ETTM Facilities means the administration/operations building, toll booths, canopies, utility connections, lighting facilities, pedestrian tunnels, etc.

ETTM System means the ETTM Equipment and the Software which monitors, controls or executes the ETTM Equipment.

Event of Default, for purpose of the Indenture, means an Event of Default as such term is defined in Section 902 of the Indenture, and for purposes of the Design-Build Contract, shall have the meaning set forth in Section 25.1 of the Design-Build Contract.

Extraordinary Completion Bonds means Bonds issued at the direction of the Department, in the case of insufficient funds to complete the Project, pursuant to subsection 2 of Section 720 of the Master Indenture.

Extraordinary Maintenance and Repair means maintenance, repair, renewal, reconstruction or replacement of any portion or component of the Project of a type which is not normally included as an annually recurring cost in Department's roadway maintenance and repair budgets.

Fair Market Value means, as of any particular time: (i) as to Investment Securities whose bid and asked prices are published on a regular basis in a financial journal or publication of general circulation in the United States of America, the bid price for such Investment Securities so published on or most recently prior to the date of valuation by the Trustee, or (ii) as to Investment Securities whose bid and asked prices are not published on a regular basis in a financial journal or publication of general circulation in the United States of America, the average bid price for such Investment Securities at the date of valuation by the Trustee, as reported to the Trustee by any three nationally recognized dealers in such Investment Securities.

FC means Fluor Corporation, a Delaware corporation, and its successors.

FD/MK means FD/MK Limited Liability Company, a Delaware limited liability company, and its permitted successors and assigns.

FD/MK Default shall have the meaning set forth in Section 17.1 of the Comprehensive Agreement.

FD/MK Indemnitee means and includes FD/MK and all of its member companies, parents, affiliates and subsidiaries, and each of their respective managers, directors, officers, employees, authorized agents and authorized representatives.

Fiduciary or **Fiduciaries** means the Trustee, the Registrar, the Paying Agent, and any escrow, authenticating or other agent of the Issuer or of any other Fiduciary, or any or all of them, as the context may require.

Final Acceptance means the occurrence of the events described in subsections (a) through (h) inclusive of Section 18.2.1 of the Design-Build Contract.

Final Acceptance Date means the date on which Final Acceptance occurs under the Design-Build Contract.

Financial Closing Date means the date on which the Bonds have been issued, sold and delivered to investors in accordance with the provisions of the Indenture.

Financial Transaction means any rate swap transaction, basis swap, cap transaction, floor transaction, hedge, collar transaction; any other "Transaction" as defined in the 1992 U.S. Municipal Counterparty Definitions published by the International Swap Dealers Association, Inc. or any amendments to or subsequent editions of such Definitions or any similar transaction (regardless of how defined) permitted under any such amendments to or more recent editions of such Definitions or of any similar publications of such association or any similar organization; any transactions similar to any of the foregoing; or any combination of any of the transactions described in this definition.

First Supplemental Indenture means the First Supplemental Indenture authorizing the issuance of the Series 1998 Bonds substantially in the form attached as Exhibit G to the Comprehensive Agreement.

First Tier Subordinate Bonds mean any Bonds designated as "First Tier Subordinate Bonds" by a Supplemental Indenture.

First Tier Subordinate Bonds Debt Service Account means the First Tier Subordinate Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

First Tier Subordinate Bonds Debt Service Reserve Account Requirement means the lesser of (i) 10 percent of the issue price within the meaning of the Code of the applicable First Tier Subordinate Bonds, (ii) the maximum annual principal and interest requirements for the applicable First Tier Subordinate Bonds, or (iii) 125 percent of the average annual principal and interest requirements for the applicable First Tier Subordinate Bonds.

Fiscal Year means the consecutive 12-month period beginning July 1 and ending June 30, or any other consecutive 12-month fiscal period used by Department for financial accounting purposes.

Fitch means Fitch Investors Service, Inc., its successors and assigns, and if Fitch Investors Service, Inc., shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer in its stead.

Fixed Price Amount shall have the meaning set forth in Section 14.1.1 of the Design-Build Contract.

Force Majeure means any of the following events (provided such events are beyond the control of Contractor and are not due to an act or omission of Contractor) which materially and adversely affects Contractor's obligations hereunder and which event (or the effects of which event) could not have been avoided by due diligence and use of reasonable efforts by Contractor:

(a) any tidal wave, hurricane force wind, flood, tornado or earthquake;

(b) any epidemic, blockade, rebellion, war, riot or act of sabotage or civil commotion;

(c) any strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence, except as excluded under subsection (iii) below;

(d) any unreasonable delay by a utility owner in connection with a Utility Relocation;

(e) any change in or new enactment of any written Laws, Regulations and Ordinances, or change in the judicial or administrative interpretation of, or adoption of any new Laws, Regulations and Ordinances which is materially inconsistent with Laws, Regulations and Ordinances in effect on the Agreement Date (subject to the exclusions set forth below);

(f) any suspension of the Work to the extent permitted under Section 25.4 of the Design-Build Contract; and

(g) any court order which restrains, enjoins, challenges or delays performance of the Work or the granting or renewal of any Regulatory Approval.

The term "Force Majeure" shall be limited to the matters listed above and specifically excludes from its definition the following matters which might otherwise be considered force majeure:

(i) fire or other physical destruction or damage, including lightning, explosion, drought, rain, storm or action of the elements or other acts of God not listed in subsection (a) above;

(ii) except as provided in subsection (b) above, explosion, malicious or other acts or similar occurrence;

(iii) strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence particular to a Contractor Party or the Project;

(iv) the presence at, near or on the Site of any Hazardous Substance;

(v) the presence at, near or on the Site of any archaeological, paleontological or cultural resource or endangered species;

(vi) Differing Site Conditions;

(vii) the suspension, termination, interruption, denial or failure to obtain or nonrenewal of any permit, license, consent, authorization or approval (including all Regulatory Approvals except to the extent that Department has agreed to be responsible for them in Section 10.3 of the Design-Build Contract) which is necessary for the performance of the Work or the operation or maintenance of the Project, except for any such matter resulting from a lawsuit as described in subsection (d) above;

(viii) a change in any Laws, Regulations and Ordinances (such as increases in tax rates) which causes an increase in amounts payable by Contractor for deliverables but which does not change the obligations to be performed by Contractor hereunder;

(ix) any lawsuit relating to any Regulatory Approval which is Contractor's risk under Article 10 of the Design-Build Contract, except as provided in subsection (e) above;

(x) Directed Changes;

(xi) any delay or cost risk for which coverage is to be provided through insurance required hereunder; and

(xii) all other matters not caused by Department or beyond the control of Department and not listed in subsections (a) through (g) above.

Fund or **Funds** means any one or more, as the case may be, of the separate special funds established by the Indenture or by any Supplemental Indenture.

Generally Accepted Accounting Principles or **GAAP** means such accepted accounting practice as, in the opinion of the Accountant, conforms at the time to a body of generally accepted accounting principles.

Governmental Person means any federal, state, local or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity.

Guaranteed Completion Date shall have the meaning set forth in Section 17.2.1 of the Design-Build Contract.

Guaranty of Contractor Loan Agreement means the Guaranty of Contractor Loan Agreement to be issued on the Financial Closing Date by FC, MKC (Ohio) and MKC (Delaware), in the form attached as Exhibit J to the Comprehensive Agreement, jointly and severally guaranteeing payment and performance by FD/MK under the Contractor Loan Agreement, and any and all amendments and supplements thereto.

Hazardous Substance means (a) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., the Clean Water Act, 33 U.S.C. Section 1251 et seq., the Clean Air Act, 42 U.S.C. Section 7401 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 136 et seq., Virginia Waste Management Act, §10.1-1400 et seq., Code of Virginia (1950) as amended, all as amended or as may be amended, or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes, (c) petroleum or crude oil or products thereof other than petroleum and petroleum products which are contained within regularly operated motor vehicles, (d) asbestos and (e) radioactive wastes and substances.

Implementation Guidelines means the Implementation Guidelines under the PPTA adopted by the Commissioner on July 1, 1995 governing the selection of Qualifying Transportation Facilities under the purview of Department, as such Implementation Guidelines may be amended or supplemented.

Indenture means the Master Indenture of Trust from the Association to the Trustee pursuant to which the Bonds are to be issued, substantially in the

form attached to the Comprehensive Agreement as Exhibit F, and each Supplemental Indenture entered into pursuant thereto.

Inspection means the act of viewing or looking carefully at construction, manufacturing and design and maintenance practices, processes and products, including document control and Shop Drawing review, to ensure the practices, processes and products comply with the quality requirements contained in the Contract Documents.

Intellectual Property means ETTM books and records, toll-setting and traffic management algorithms, and Software and associated documentation used in connection with the Project (including but not limited to Software and associated documentation used for management of traffic on the Project) and the ETTM Data.

Interest Payment Date means the date on which interest is due and payable on any Series of Bonds.

Interest Rate means any interest rate borne or to be borne by a Series of Bonds.

Investment Security or **Investment Securities** means any one or more of the following securities:

(a) Direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America;

(b) Obligations, debentures, notes or other evidences of indebtedness issued or guaranteed, directly or indirectly, by any of the following: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Federal National Mortgage Association; Federal Home Loan Mortgage Corporation; Farmers' Home Administration; Tennessee Valley Issuer; Federal Farm Credit System; Federal Financing Bank; the Government National Mortgage Association; the Student Loan Marketing Association; or any successor;

(c) Obligations issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes, preliminary loan notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(d) Direct and general obligations of or obligations guaranteed by the State, the payment of the principal of and interest on which is a general

obligation of the State, provided that at the time of their purchase, such obligations are rated in one of the two highest rating categories by each Rating Agency;

(e) Demand deposits or interest-bearing time deposits, certificates of deposit or other similar banking arrangements, with the Trustee or a member of the Federal Deposit Insurance Corporation, or any such institution having (or whose parent holding company has) undivided capital and surplus of at least $50,000,000, provided that such time deposits or certificates of deposit, to the extent not insured to the full amount thereof, must be fully secured by obligations of the type specified in (a), (b), (c) or (d) above or (g) below which have a Fair Market Value, including accrued interest, at least equal at all times to the amount of such deposits;

(f) Repurchase Agreements with banks which are members of the Federal Deposit Insurance Corporation or with members of the Association of Primary Dealers in United States Government Securities (or any successor thereof), the underlying securities of which are of the type described in (a) above, which are held by a third party bank for safekeeping on behalf of the Issuer, and which are fully secured at all times by obligations of the same type which have a Fair Market Value, including accrued interest, at least equal to the amount of such Repurchase Agreement, provided that at the time such Repurchase Agreement is acquired, the issuer of the repurchase agreement is rated at least "A" by Moody's, if any Bonds are then rated by Moody's, and at least "A-" by S&P, if any Bonds are then rated by S&P;

(g) Direct and general obligations of any state, political subdivision or governmental authority within the territorial United States of America, provided that at the time of their purchase, such obligations are rated in one of the two highest rating categories by each Rating Agency;

(h) Certificates of deposit of any bank, including the Trustee, with undivided capital and surplus of at least $50,000,000, the unsecured debt of which is rated as of the date of acquisition in one of the two highest rating categories by each Rating Agency, with such certificates of deposit to be secured by any other Investment Securities or any security then acceptable to secure deposits of public funds of the State and having a Fair Market Value, including accrued interest, at least equal to the amount of the certificate of deposit;

(i) Investment agreements with any bank or other financial institution, including the Trustee, with undivided capital and surplus of at least $50,000,000, the unsecured debt of which is rated as of the date of acquisition in one of the two highest rating categories by each Rating Agency, with such investment agreement to be secured by any other Investment Securities described herein or by any security then acceptable to secure deposits of public

funds of the State and having a Fair Market Value, including accrued interest, at least equal to the amount of the Investment Agreement;

(j) Unsecured investment agreements with the Trustee or any bank or other financial institution the unsecured debt or counterparty rating of which is rated, as of the date of acquisition in one of the two highest rating categories by each Rating Agency; and

(k) Any other obligation which, at the time acquired, is rated, by each Rating Agency, in one of the two highest rating categories for long-term obligations or in the highest rating category for short-term obligations.

Issuer means the Association.

ITS means any application of computer, electronics and/or telecommunications equipment and software and supporting fixtures and equipment whose function is to provide information, data and/or services to the traveling public or Department or to manage and control traffic, all items listed in the Federal Highway Administration Intelligent Transportation Systems Summary Report dated January 19, 1995, and any future systems or services conceived or developed for the same or similar purposes; however ITS shall not include the ETTM System as used for Project Purposes.

Laws, Regulations and Ordinances means all applicable laws, codes, rules, ordinances, restrictions and regulations of the federal, State, regional or any local government (including those resulting from the initiative or referendum process) and judicial or administrative orders.

Letter of Instructions means a written directive and authorization executed by an Authorized Association Representative.

Letter of Representations means the Letter of Representations between the Issuer and The Depository Trust Company, New York, New York, regarding the Public Debt issued under the Indenture, and, if necessary, any similar letter regarding any additional Bonds offered and sold to the public.

Lien means any pledge, lien, security interest, mortgage, deed of trust or other charge or encumbrance of any kind, or any other type of preferential arrangement (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature of a security instrument and the filing of or agreement to file any financing statement under the Virginia Uniform Commercial Code).

Liquidated Damages shall have the meaning set forth in Section 25.6 of the Design-Build Contract.

Master Indenture means the "Master Indenture" referred to in the definition of Indenture, without regard to any Supplemental Indenture.

Memorandum and Assignment means the Memorandum of Comprehensive Agreement and Absolute Assignment of Toll Revenues among Department, FD/MK, the Association and the Trustee in the form of Exhibit K to the Comprehensive Agreement, and any and all amendments and supplements thereto.

MKC (Delaware) means Morrison Knudsen Corporation, a Delaware corporation and its successors.

MKC (Ohio) means Morrison Knudsen Corporation, an Ohio corporation and its successors.

Moody's means Moody's Investors Service Inc., its successors and assigns, and, if Moody's Investors Service, Inc., shall for any reason no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer and its stead.

Nationally Recognized Municipal Securities Information Repository or NRMSR means a nationally recognized municipal securities information repository, as recognized from time to time by the Securities and Exchange Commission by no-action letter for the purposes referred to in SEC Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended.

NEPA means the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., as amended and as it may be amended from time to time.

Non-Construction Costs means (1) the costs of Project Right of Way acquisition and relocation, (2) the costs of Utility Relocations, (3) the costs of design and engineering, (4) the costs of promoting, marketing and advertising the Project and its opening to the public incurred prior to the commencement of revenue operations on the Project, and (5) any other costs approved by the Department pursuant to Section 3.3 of the SIB Loan Agreement.

Notice of Proposed Change/Direction means a notice issued by Department concerning a possible Change Order, as specified in Section 19.3.2 of the Design-Build Contract.

Notice of Termination means a notice issued by Department to terminate the Design-Build Contract and the performance of the Work by Contractor pursuant to Article 26 of the Design-Build Contract.

Opening Date means the first date on which the Project (other than overpasses and underpasses) is opened for regular public use.

Operating Expenses means Current Expenses.

Operator shall have the meaning assigned to such term in Section 56-557 of the PPTA and, for purposes of the Comprehensive Agreement, means FD/MK from the Agreement Date to and including the Transition Date and means the Association thereafter until the end of the Term of the Comprehensive Agreement.

Optimum Toll Revenues means the highest aggregate Toll Revenues that the Toll Consultant reasonably estimates may be collected in any Fiscal Year, based on a traffic study conducted as and when required under Section 4.2 of the Comprehensive Agreement or Section 717 of the Indenture.

Outstanding means, with respect to any Bonds as of any date, Bonds theretofore or thereupon being authenticated and delivered under the Indenture except:

(a) Bonds canceled or delivered for cancellation at or prior to such date;

(b) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to the Indenture; and

(c) Bonds deemed to have been paid, redeemed, purchased or defeased as provided in the Indenture, in any Supplemental Indenture, as applicable, or as provided by law.

Oversight Budget shall have the meaning set forth in Section 5.2.3 of the Design-Build Contract.

Oversight Services means those services and functions Department has the right or obligation to perform or to cause to be performed under the Laws, Regulations and Ordinances or any Project Agreement in order to monitor, review, manage or administer the Project Agreements or the work or performance of the Operator under the Project Agreements; provided that Oversight Services do not include performance by Department of responsibilities delegated to it under Section 8.3 of the Comprehensive Agreement.

Paying Agent means any bank or trust company or national or state banking association (which may include the Trustee) designated to make payment of the principal and Redemption Price of and interest on the Bonds of any Series, and its successor or successors, hereafter appointed by Supplemental Indenture and meeting the requirements of Article X of the Indenture.

Payment Bond means the payment bond described in Section 22.6 of the Design-Build Contract.

Performance Bond means each performance bond to be provided by a Subcontractor as described in Section 22.6 of the Design-Build Contract.

Person means any individual, public or private corporation, county, district, authority, municipality, political subdivision or other entity of the State or the United States of America, and any corporation, limited liability company, partnership, association, firm, trust, estate, or any other entity whatsoever.

Plans and Specifications means the 100% completed maps, plans, drawings and specifications for different components of the Work as approved by Department's Chief Engineer and bearing the seal of a Virginia licensed engineer.

Plume means the existing underground plume of Hazardous Substances located generally on the west side of the James River in the vicinity of the Route 895 and I-95 interchange, as depicted and described (a) in the certain report entitled "Environmental Site Assessment, Virginia Department of Transportation, I-95/I-895 James River to Route 1," prepared by Nick Froelich, of the Department, and Marshall Miller & Associates, bearing MM&A Project No. VRR190 and (b) on the certain map of such vicinity comparing contamination in 1993 and 1997, prepared by Site Blauveldt.

PPTA means the Public-Private Transportation Act of 1995, which is codified as Title 56, Chapter 22, Section 56-556 et seq., Code of Virginia, as amended from time to time.

Pre-Existing Hazardous Substances means any Hazardous Substance that was present within the Project Right of Way limits prior to acquisition of the property for the Project, and which was not placed or deposited there by either Contractor or Department.

Pre-Opening Expense Draw Request means a draw request from the Issuer on the Draw Request and Certificate form attached as Exhibit 2 to the Master Indenture.

Preliminary Engineering means all the attachments included in Appendices A and B to the Scope of Work.

Principal Installment means, to the extent applicable to a particular Series, as of any particular date of calculation, an amount of money equal to the aggregate of (i) the principal amount or Accreted Value of Outstanding Bonds of such Series which mature on a single future date, reduced by the aggregate principal amount or Accreted Value of such Outstanding Bonds of such Series which would at or before said future date be retired as a result of Sinking Fund Installments applied in accordance with the Indenture plus (ii) the amount of any Sinking Fund Installment payable on said future date for the retirement of any Outstanding Bonds of such Series.

Project means (a) all improvements constituting the Route 895 Connector as generally described in the Scope of Work, (b) the ETTM Facilities and

System, (c) all other improvements and other Work Product to be provided by Contractor as a condition to Final Acceptance in accordance with the Contract Documents, including all replacement wetlands and other off-site improvements required by applicable Law, Regulations and Ordinances and Regulatory Approvals, and (d) any Project Enhancements; provided, however, that the term "Project" as used in the Design-Build Contract excludes any Project Enhancements.

Project Agreement means any of the Comprehensive Agreement, the Memorandum and Assignment, the Contract Documents, the Project Financing Agreement, the Completion Guaranty, the Indenture, the SIB Loan Agreement, the SIB Loan Note, the Contractor Loan Agreement, the Guaranty of Contractor Loan Agreement, the Continuing Disclosure Agreement and the Bonds issued pursuant to the First Supplemental Indenture; and the term "Project Agreements" means all such agreements and documents in the aggregate.

Project Enhancements means any extensions of, additions to, or major modifications, replacements or reconstruction of the Project undertaken by Department or the Association with Department direction and approval after the date of Substantial Completion, including but not limited to new ramps and connectors, roadway and ramp widenings, lane additions (including high occupancy vehicle lanes), rail and transit improvements, and other additional access facilities and capacity improvements to the Project.

Project Financing Agreement means the Project Financing, Assignment and Assumption Agreement among Department, FD/MK and the Association in the form of Exhibit E to the Comprehensive Agreement, and any and all amendments and supplements thereto.

Project Manager shall have the meaning set forth in Section 2.2.3 of the Design-Build Contract.

Project Purposes means and is limited to the developing, permitting, design, financing, acquisition, construction, installation, equipping, maintenance, repair, preservation, modification, operation, management and administration of the Project. Project Purposes exclude, however, any activities associated with Reserved Rights.

Project Right of Way means all real property (which term is inclusive of all estates and interests in real property) which is necessary for ownership and operation of the Project by Department. The term specifically includes (a) all property within the access control line for the Project and (b) the property on which the ETTM Facilities are located. The term specifically excludes any temporary easements or other real property interests which Contractor deems necessary or advisable in connection with construction of the Project and/or Utility Relocations.

Proprietary Software means all Software and associated documentation developed outside the scope of the Comprehensive Agreement and the Design-Build Contract but used for Project Purposes.

Public Debt means the Senior Bonds, the First Tier Subordinate Bonds and any other Bonds issued in a public offering under the Indenture. Public Debt shall not include the SIB Bond, the Contractor Bond or any other Bonds issued to Department or Contractor.

Punch List means the list of Work which remains to be completed after achievement of Substantial Completion, and shall be limited to minor incidental items of Work necessary to correct imperfections which have no adverse effect on the safety or operability of the Project.

Qualified Management Contract means a contract that, pursuant to the applicable United States Treasury regulations, will not result in use of the Project by the manager under such contract being "private business use" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended.

Qualifying Transportation Facility shall have the meaning assigned to such term in Section 56-557 of the PPTA.

Quality Assurance (QA) means all those planned and systematic actions necessary to provide confidence that all Work fully complies with the Contract and that all materials incorporated in the Work, all equipment and all elements of the Work will perform satisfactorily for the purpose intended. Actions include design checks and reviews; document control; Shop Drawing review and approval; materials sampling and testing at the production site and the Project site; inspection of manufacturing/processing facilities and equipment; inspection of on-site equipment, calibration of test equipment, documentation of QA activities, etc.

Quality Assurance Manager means the independent consultant responsible for inspecting and testing in accordance with the Quality Assurance and Control Inspection Program as described in Appendix C attached to the Scope of Work.

Quality Assurance and Control Inspection Program means the program described in Appendix C attached to the Scope of Work.

Quality Control (QC) means the total of all activities performed by Contractor, designer, producer, or manufacturer to ensure that a product meets Contract requirements. For highway design, construction and maintenance this includes design procedures and checking, materials handling and construction procedures, calibration and maintenance of equipment, Shop Drawing review, document control, production process control, and any sampling, testing, and

inspection done for these purposes. QC also includes documentation of QC efforts.

Rating Agency means any one or more, as the context may require, of the following that as of the date of applying this definition maintain a rating on the applicable Bonds: Fitch, Moody's and S&P.

Rebate Analyst means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Issuer to make the computations required under the Indenture or any Supplemental Indenture.

Rebate Fund means the Route 895 Connector Toll Road Revenue Bond Rebate Fund established by Section 502 of the Indenture, and includes any separate accounts or subaccounts established by the terms of any Supplemental Indenture or any agreement pursuant thereto.

Record Date as used with respect to any Interest Payment Date for any Series of Bonds offered and sold to the public means the date designated in any Supplemental Indenture as the record date for the payment of interest on such Series of Bonds, or if no Record Date is so designated (i) with respect to interest not in default, the fifteenth day next preceding such Interest Payment Date in respect of such Series and (ii) with respect to defaulted interest, the fifth day preceding payment thereof.

Redemption Date means the date upon which any Bonds are to be redeemed prior to their respective fixed maturities pursuant to the mandatory or optional redemption provisions of any Supplemental Indenture.

Redemption Price means, with respect to any Bond, the amount, including any applicable premium, payable upon the mandatory or optional redemption thereof, as provided in any Supplemental Indenture.

Reference Documents means those documents listed in the Scope of Work.

Refunding Bonds means all Bonds, whether issued in one or more Series, issued for the purpose of refunding a like or different principal amount of Bonds, and authenticated and delivered pursuant to the Indenture.

Register means the register maintained by the Registrar for each Series of Bonds which shows ownership of Bonds in accordance with Section 308 of the Indenture.

Registrar means any bank or trust company or national or state banking association (which may include the Trustee), designated to keep a Register of the Owners of the Bonds of any Series and its successor or successors,

hereafter appointed by Supplemental Indenture and meeting the requirements of Article X of the Indenture.

Regulatory Approvals means all local, regional, state and federal agreements, studies, findings, permits, approvals, authorizations, certifications, consents, decisions, exemptions, filings, leases, licenses, registrations, rulings and other governmental authorizations required to be obtained or completed under applicable Laws, Regulations and Ordinances prior to undertaking any particular activity contemplated by the Comprehensive Agreement or Design-Build Contract. The term "Regulatory Approvals" includes the EIS.

Reimbursable Site Work means the portion of the Differing Site Conditions Work, if any, subject to reimbursement by Contractor pursuant to Section 19.4.1.2(e)(ii) of the Design-Build Contract.

Related Financial Transaction means, with respect to any Series of Bonds, a Financial Transaction pursuant to which payments by the Issuer are to be paid from or secured by revenues or funds pledged to the payment of or as security for such Series of Bonds and payments to the Issuer are pledged to the payment of or as security for such Series of Bonds.

Related Party means:

(a) any person or entity that is a stockholder, member, manager or general or limited partner of FD/MK or that owns, directly or through one or more intermediate entities a 10% or greater equity interest in FD/MK (each a "substantial owner");

(b) any entity in which a substantial owner owns directly or through one or more intermediate entities a 10% or greater equity interest;

(c) any entity effectively controlled by a substantial owner; or

(d) senior management of FD/MK, or members of the immediate family of any individual substantial owner or of such senior management.

Renewal and Replacement Fund means the Route 895 Connector Toll Road Revenue Bond Renewal and Replacement Fund established by Section 502 of the Indenture.

Renewal and Replacement Fund Requirement means the amount to be deposited on an annual basis into the Renewal and Replacement Fund as specified by the Department for inclusion in the Annual Budget.

Repurchase Agreement means any agreement entered into with a Person pursuant to which the Trustee, on behalf of the Issuer, purchases and

such Person agrees to repurchase specified Investment Securities, provided that the repurchase price shall not be less than the purchase price.

Reserved Rights means all of the following:

(a) subject to Section 12.1 and the last sentence of Section 19.2 of the Comprehensive Agreement, Department's right to use, possess and enjoy any real and personal property over, on, under or adjacent to the Project Right of Way for other transportation and transit facilities, including but not limited to tunnels, flyovers, interchanges and fixed guideways; and

(b) all right to use, and use of:

(i) all electrical, fiber optic and wireless conduit, cable, capacity, towers, antennas and associated equipment or other telecommunications equipment, hardware and capacity existing over, on, under or adjacent to any Project Right of Way installed by anyone, whether before or after the Agreement Date, and all Software which executes such equipment and hardware and related documentation, to the extent not necessary and required for traffic management for the Project or for other Project Purposes;

(ii) ETTM Data or other data generated from operation of the Project or toll collection technology except as required solely for Project Purposes;

(iii) any area or space over, on, under or adjacent to the Project Right of Way for development and operation of any office, commercial, industrial or mixed use real estate project, such as but not limited to revenue-generating service or rest areas;

(iv) any equipment, facilities or capabilities for ITS studies or applications installed by Department and the right to install any such equipment, facilities or capabilities other than the ETTM System;

(v) toll collection technology for other than Project Purposes; and

(vi) any area or space over, on, under or adjacent to the Project Right of Way for any other commercial or non-commercial development or use.

Responsible Public Entity shall have the meaning assigned to such term in Section 56-557 of the PPTA and, for purposes of the Comprehensive Agreement, means Department.

Retainage shall have the meaning set forth in Section 14.2.6.1 of the Design-Build Contract.

Retainage Account means the Retainage Account of the Route 895 Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture.

Revenue Fund means the Route 895 Connector Toll Road Revenue Bond Revenue Fund established by Section 502 of the Indenture.

Revenues means all amounts received by or on behalf of the Association from Toll Revenues; proceeds from insurance (other than proceeds of fire and other casualty insurance), condemnation awards with respect to the Project; all amounts payable to the Association (but not Department) as liquidated damages under contracts, in each case, to the extent the same relate to the Project; all amounts derived from the sale or other disposition of the Association's interest in the Project; amounts derived as grants, loans or otherwise from the United States of America, the State or any other Person which may be available for, and which the Association determines to, deposit in the Revenue Fund; all investment earnings that are transferred to or deposited into the Revenue Fund; all moneys released from another Fund or Account and transferred to the Revenue Fund pursuant to subsection 2 of Section 505 of the Indenture; and all other amounts derived from or in respect of the operation of the Project which constitute revenues in accordance with Generally Accepted Accounting Principles, including without limitation tolls and any interest income earned on any Funds and Accounts which is required to be transferred to or maintained in any Fund, Account or Subaccount hereunder; provided, however, Revenues exclude (a) the costs of goods and/or services in kind provided to Association with respect to which Association has no obligation of repayment, (b) moneys and interest thereon held in the 1998 Series D Subaccount of the Construction Fund, (c) moneys and interest thereon held in the Department Capital Cost Savings Account of the Construction Fund, (d) amounts Department elects to fund under Section 6.5(c) or (e) of the Comprehensive Agreement, (e) moneys and interest thereon held in any other Fund or Subaccount other than the Revenue Fund and (f) revenues and proceeds arising out of or relating to Reserved Rights or the disposition of surplus or residual property.

RFC Notice shall have the meaning set forth in Section 19.4.2.1 of the Design-Build Contract.

Right of Way Acquisition Plan means the modifications to Department's Right of Way Manual of Instructions prepared by Contractor and approved by Department pursuant to Section 6.1.1 of the Design-Build Contract.

Right of Way Plans means the Project Right of Way plans included in the Preliminary Engineering.

ROW/Utility Allowance means the portion of the Contract Price allocated to Project Right of Way Work and Utility Relocation Work, as further described in Section 14.1 of the Design-Build Contract.

Rule 15c2-12 means Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (17 C.F.R. §240.15c2-12).

S&P means Standard & Poor's Ratings Group, a Division of McGraw-Hill, Inc., its successors and assigns, and, if Standard & Poor's Ratings Group, a Division of McGraw-Hill, Inc., shall for any reason no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer in its stead.

Safety Directed Change means a Directed Change directing Contractor to perform changes in the Work and setting forth a written finding of the Department's Chief Engineer to the effect that it is issued to conform to changes in safety standards or methodologies agreed to or adopted by Department for similar portions of State Highways.

Safety Program means Contractor's approved safety program meeting the requirements set forth in Section 5.1.2 of the Design-Build Contract.

Scheduled Completion Date shall have the meaning set forth in Section 14.5.1 of the Design-Build Contract.

Scope of Work means the document attached to the Design-Build Contract as Appendix 6.

Second Tier Subordinate Bonds means any Bonds designated as "Second Tier Subordinate Bonds" by a Supplemental Indenture.

Second Tier Subordinate Bonds Debt Service Account means the Second Tier Subordinate Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

Securities Depository means The Depository Trust Company, a corporation organized and existing under the laws of the State of New York, and any successor Securities Depository appointed pursuant a Supplemental Indenture.

Senior Bonds mean any Bonds designated as "Senior Bonds" by a Supplemental Indenture.

Senior Bonds Capitalized Interest Subaccount has the meaning set forth in any Supplemental Indenture.

Senior Bonds Capitalized Interest Subaccount Requirement means the amount required to be deposited in the Senior Bonds Capitalized Interest Subaccount by any Supplemental Indenture, calculated in the manner and times as set forth therein.

Senior Bonds Debt Service Account means the Senior Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

Senior Bonds Debt Service Reserve Account means the Senior Bonds Debt Service Reserve Account of the Debt Service Reserve Fund established by Section 502 of the Indenture.

Senior Bonds Debt Service Reserve Account Requirement means the lesser of (I) 10 percent of the issue price within the meaning of the Code of the applicable Senior Bonds, (ii) the maximum annual principal and interest requirements for the applicable Senior Bonds, or (iii) 125 percent of the average annual principal and interest requirements for the applicable Senior Bonds.

Series means Bonds identified as a separate series which are authenticated and delivered on original issuance and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to any Supplemental Indenture. All Bonds of a particular Series shall be of the same Tier.

Series 1998D Bonds Proceeds Account means the Series 1998D Bonds Proceeds Account of the Construction Fund established by Section 502 of the Indenture.

Shop Drawings means drawings showing the sizes, shapes and locations of component elements comprising the Project.

SIB Bond means the Series 1998D Bond issued to the CTB under the Indenture and in accordance with the SIB Loan Agreement evidencing the SIB Loan, and any and all supplements and amendments thereto.

SIB Loan means the loan authorized to be made by the CTB to the Association under the SIB Loan Agreement.

SIB Loan Agreement means the SIB Loan Agreement among the CTB, the Association and the Trustee in the form of Exhibit H to the Comprehensive Agreement, and any and all amendments and supplements thereto.

SIB Loan Note means the promissory note to be delivered by the Association to the CTB in the form attached as Exhibit B to the SIB Loan Agreement.

Sinking Fund Installment means, as of any particular date of calculation and with respect to any Series of Bonds, the amount of money to be applied as the Redemption Price of Bonds subject to mandatory sinking fund redemption in any Fiscal Year prior to maturity pursuant to the Supplemental Indenture for such Series, as such Sinking Fund Installment shall have been previously reduced by

the principal amount of any Bonds of such Series of the maturity in respect of which such Sinking Fund Installment is payable which are purchased or redeemed by the Trustee in accordance with the provisions of Section 507 of the Indenture or of any Supplemental Indenture, other than by the prior payment of a Sinking Fund Installment.

Site means those areas designated in writing by Department for performance of the Work and such additional areas as may, from time to time, be designated in writing by Department for Contractor's use in performance of the Work. The Site initially includes the area within the Project Right of Way limits. For purposes of insurance, indemnification, safety and security requirements and payment for use of equipment the term "Site" also includes any areas on which Utility Relocation Work is performed and any property being temporarily used by Contractor for storage of equipment and/or construction Work.

Software means (a) computer instructions, including programs, routines and databases and applications supplied, procured or developed by Contractor as part of the Work or by the Association or Department in connection with the operation of the Project or other Project Purposes or in connection with Reserved Rights, including but not limited to that which monitors, controls or executes on ETTM Equipment or ITS equipment or hardware, and (b) all modifications, updates and revisions made to the matter described in subsection (a) above, including those made to correct errors or to support new models of computer equipment and/or new releases of operating systems.

Source Code means Software program higher order language listings, internal documentation embedded in program listings, associated data files and data structures, in electronic and/or printed form, necessary for maintenance of and modifications to the Software.

Source Code Documentation means the program level Software design documentation, associated data files, data structures and algorithm descriptions necessary to make program code level modifications to delivered Software.

Standard Specifications means the Virginia Department of Transportation Metric Road and Bridge Specifications dated January 1997, provided that the document attached to the Design-Build Contract as Appendix 9 shall be substituted for Division I thereof. Divisions II through VII will not apply to the Work except in connection with any design furnished by Contractor which references the Standard Specifications.

State means the Commonwealth of Virginia.

State Highway means any highway designated a State Highway pursuant to Title 33.1, Chapter 1, Sections 25, 48 and 67, Code of Virginia.

State Indemnitee means and includes Department, the Commissioner, the CTB, the State and all elected representatives, appointed officials, commissioners, officers, members, employees, authorized agents and authorized representatives of any of them.

Subaccount means any one or more of the subaccounts from time to time created in any of the Accounts established by Section 502 of the Indenture or by any Supplemental Indenture.

Subcontract means any agreement by Contractor with any other Person to perform any part of the Work or provide any materials, equipment or supplies for any part of the Work, or any such agreement at a lower tier, between a Subcontractor and its lower tier Subcontractor.

Subcontractor means any Person with whom Contractor has entered into any Subcontract to perform any part of the Work or provide any materials, equipment or supplies for the Project on behalf of Contractor (and any other Person with whom any Subcontractor has further subcontracted any part of the Work).

Subordinate means, when used with respect to a particular Tier of Senior Bonds, First Tier Subordinate Bonds or Second Tier Subordinate Bonds or bonds or other obligations subordinate thereto, all Bonds with respect to which amounts in the Revenue Fund are to be applied to the Debt Service Account for such Bonds pursuant to subsection 1 of Section 505 of the Indenture at a priority following the priority at which such amounts are to be applied to the Debt Service Account for the particular Tier of Bonds.

Substantial Completion shall have the meaning set forth in Section 17.3 of the Design-Build Contract.

Superior Obligation means a Tier of Bonds that is paid out of a Debt Service Account at a priority above the priority of another Debt Service Account for another Tier of Bonds pursuant to Section 505 of the Indenture.

Supplemental Indenture means any indenture supplemental to or amendatory of the Master Indenture, entered into by the Issuer and the Trustee in accordance with Article XI of the Indenture.

Supplier means any Person not performing work at the Site that supplies machinery, equipment, materials or systems 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 the State Corporation Commission to do

business in the State, listed in the U.S. Treasury Department Circular 570 and with an A.M. Best and Company rating level of A- or better, Class VII or better, or as otherwise approved by Department, at its sole discretion, which has issued the Payment Bond or Performance Bond.

Surplus Fund means the Route 895 Connector Toll Road Revenue Bond Surplus Fund established by Section 502 of the Indenture.

Tax Compliance Certificate means the tax compliance certificate delivered to the Trustee in connection with any Series of Tax-Exempt Bonds.

Tax-Exempt Bonds means Bonds the interest on which is intended to be excludable from the gross income of the Owners thereof for federal income tax purposes.

Term, for purposes of the Comprehensive Agreement, means the time period commencing on the Agreement Date and expiring on the latest date the Bonds, including the SIB Bond and Contractor Bond are paid (or fully defeased) and the lien of the Indenture has been discharged in accordance with its terms.

Tier means all Bonds of one or more Series the principal and Redemption Price of and interest on which are payable from the same Debt Service Account. Bonds issued pursuant to subsection 2 of Section 720 of the Indenture are deemed to constitute a separate Tier of Bonds.

Toll Consultant means Wilbur Smith & Associates and any other engineer or engineering firm selected by the Association (with the consent and approval of Department and the Trustee) to perform and carry out the duties imposed on the Toll Consultant under the Comprehensive Agreement and the Indenture.

Toll Revenues means all amounts received by or on behalf of the Issuer from fees, tolls, rates and charges for the privilege of traveling on the Project imposed by the Issuer pursuant to the Comprehensive Agreement. Toll Revenues excludes revenues and proceeds arising out of or relating to Reserved Rights.

Toll Servicing Rights shall have the meaning set forth in Section 3.4(b) of the Comprehensive Agreement.

Total Remaining Costs of the Project has the meaning set forth in item F of the form of Draw Request attached as Appendix 3 to the Design-Build Contract and Exhibit 1 to the Master Indenture.

Traffic and Revenue Study means the certain "Route 895 Connector Comprehensive Traffic and Revenue Study," dated May 14, 1998, prepared by Wilbur Smith & Associates, all data, charts, tables analysis and other documentation assembled or prepared by Wilbur Smith in connection therewith

and all existing and future updates, reissuances, supplements and amendments thereto.

Transition Date means the first to occur of (a) the Opening Date, (b) the Final Acceptance Date or (c) the date, if any, that FD/MK's rights under the Comprehensive Agreement and the Design-Build Contract are terminated pursuant to Article XVI of the Comprehensive Agreement.

Transportation Trust Fund Earnings Rate means for any month the composite yield during the preceding month on average assets in the Commonwealth of Virginia Transportation Trust Fund as reported in the Department of Treasury "General Account Investment Portfolio-Monthly Average Balances and Yields." The composite yield is determined by dividing the annualized earnings for the month, which includes interest accruals, accretions, amortization and realized gains and losses, by the average asset balances for the month.

Trustee means Crestar Bank, a Virginia banking corporation, its legal successor, or any other commercial bank or trust company duly organized and existing under the laws of any state or the United States of America, which is authorized under the laws of the State to exercise corporate trust powers and is subject to examination by federal authority, appointed pursuant to Article X of the Indenture as its successor or its successors.

Trust Estate means:

(a) All right, title and interest of the Issuer now owned or hereafter acquired in all Revenues and to the Funds (except for the Rebate Fund, the Series 1998D Bonds Proceeds Account, the Department Capital Cost Savings Account and the Retainage Account) including amounts deposited therein (together with all investments thereof and investment income earned thereon, including Investment Securities held therein); provided, that the Issuer may establish one or more separate accounts in the Funds and Accounts, which accounts and the amounts deposited therein (together with all investments thereof and investment income earned thereon) may be held in trust exclusively for the payment of one or more designated Series of Bonds or portions thereof or for any other designated purpose, or otherwise, all as provided in the Indenture or in any Supplemental Indenture;

(b) Any and all property of every kind and nature (including, without limitation, cash, obligations or securities) which may from time to time hereafter be assigned, hypothecated, endorsed, pledged, granted, or delivered to or deposited with the Trustee by the Issuer or anyone on its behalf, or which pursuant to any of the provisions of the Indenture may come into the possession or control of the Trustee as security under the Indenture, or of a receiver lawfully appointed under the Indenture, including, but not limited to, any Related Financial Transaction (provided, however, that the Issuer's interest with respect

to a Related Financial Transaction and the Revenues derived therefrom shall be part of the Trust Estate only in respect of the Series of Bonds to which such Related Financial Transaction relates), all of which the Trustee is authorized to receive, hold and apply according to the terms of the Indenture;

(c) All right, title and interest of the Association now owned or hereafter acquired in the Project Financing Agreement (including its rights in the Comprehensive Agreement, the Design-Build Contract and certain rights assigned by the Department under the Completion Guarantee), the Guaranty of Contractor Loan Agreement, the Completion Guarantee, the SIB Loan Agreement and the other Project Agreements to which the Association is a party or of which it is a beneficiary; and

(d) Proceeds of the foregoing.

Utility or **utility** means a public, private, cooperative, municipal and/or government line, facility or system used for the carriage, transmission and/or distribution of cable television, electric power, telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, sewage, storm water not connected with the highway drainage and similar substances that directly or indirectly serve the public. The term "Utility" specifically excludes (a) storm water lines connected with the highway drainage, and (b) traffic signals, street lights, and electrical systems for roadways.

Utility Owner or **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 Relocation means the removal, relocation and/or protection in place (including provision of temporary services as necessary) of any and all utility facilities that have to be removed, relocated and/or protected in place in order to permit construction of the Project.

Warranties means the warranties made by Contractor in Article 11 of the Design-Build Contract.

Work means all of the administrative, design, engineering, real property acquisition support services, Utility Relocation, procurement, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, maintenance, documentation and other duties and services to be furnished and provided by Contractor as required by the Contract Documents, including all efforts necessary or appropriate to achieve Final Acceptance except for those efforts which such Contract Documents specify will be performed by Persons other than a Contractor Party.

Working Drawings means drawings needed to show things associated with the construction of something to be constructed, but which will not be part of the permanent construction, e.g. formwork.

Work Product means all the data, information, documentation and other work product produced, prepared, obtained or deliverable by or on behalf of any Contractor Party or the Association and in any way related to the Project or Project Right of Way, including but not limited to Shop Drawings, Working Drawings, Draft Plans and Specifications, Plans and Specifications, record and as-built plans and specifications, engineering documents, geotechnical soils and soil boring data, analyses, reports and records, the Right of Way Plan, property acquisition files, agreements and documents (including records of payment and related correspondence, title policies, parcel diaries and all documents described in Section 6.4.2 of the Design-Build Contract), engineers' and inspectors' diaries and reports, utility relocation plans and agreements, right of way record maps and surveys, Traffic and Revenue Studies, and other feasibility data, analyses, studies and reports, correspondence and memoranda relevant to design or construction decisions, contracting plans, air quality monitoring data, environmental reviews, studies and reports, mitigation studies and reports, data, assessments, studies and reports regarding Hazardous Substance investigations, testings, borings, monitoring and analyses, manifests regarding handling, storage or transportation of Hazardous Substances, correspondence and agreements relating to Regulatory Approvals, Change Orders, final quantities, pile driving records, records of accidents and traffic management, field test records and reports, concrete pour records, surfacing depth check records, grade and alignment books, cross-section notes, drainage notes, photographs, false work and form plans, records of construction materials, Toll Equipment and Toll Facilities records and reports, and any other documents which can be reasonably described as technical or engineering documents. Work Product expressly excludes, however, documents and information which Contractor or Association (as the case may be) and Department mutually agree in writing, or which a court determines, to be exempted or protected from public disclosure under Section 18.2 of the Comprehensive Agreement and which is not conceived or first reduced to practice for Project Purposes, such as but not limited to the EPD and other proprietary financial and pricing information of Contractor.

EXHIBIT B

DESCRIPTION OF PROJECT

The Project (the Route 895 Connector) will be an approximately nine-mile, four-lane limited access tollway extending from the current eastern terminus of Chippenham Parkway (State Route 150) at I-95 to a connection with I-295 southeast of Richmond International Airport. The Project also includes improvements to Chippenham Parkway between I-95 and Route 1 to the west. The Project will include two parallel high-level bridges crossing Route I-95 and the James River south of the Port of Richmond's deepwater terminal. The Project will have a single mainline toll plaza in Henrico County near the bridges across the James River and toll collection facilities at the Laburnum Avenue interchange on the ramps entering and exiting the eastern portion of the Project. Toll facilities included in the Project will include manual lanes, automatic coin machines and electronic toll collection equipment.

EXHIBIT C

DESIGN-BUILD CONTRACT

DESIGN-BUILD CONTRACT

Route 895 Connector

Dated as of June 3, 1998

by and between

VIRGINIA DEPARTMENT OF TRANSPORTATION,
a department of the Commonwealth of Virginia

and

FD/MK LIMITED LIABILITY COMPANY,
a Delaware limited liability company

TABLE OF CONTENTS

Page

ARTICLE 1. DEFINITIONS; CONTRACT DOCUMENTS; ACCEPTANCE OF PRELIMINARY DESIGN AND PROJECT SITE **1**

1.1 CERTAIN DEFINITIONS 1
1.2 RECITALS 1
1.3 ORDER OF PRECEDENCE 2
1.4 ACCEPTANCE OF PRELIMINARY ENGINEERING AND SITE CONDITIONS 2

ARTICLE 2. CONTRACTOR'S DESIGN, PROCUREMENT AND CONSTRUCTION RESPONSIBILITIES **3**

2.1 DESIGN AND CONSTRUCTION 3
2.2 CONTRACTOR OBLIGATIONS 3
2.3 ETTM SYSTEM 4

ARTICLE 3. PLANS AND SPECIFICATIONS **5**

3.1 COMMENCEMENT OF DESIGN WORK 5
3.2 IN-PROGRESS REVIEW 5
3.3 DESIGN APPROVAL 5
3.4 REVIEW DEADLINES 5
3.5 STATUS OF DESIGN AT COMMENCEMENT OF WORK 6
3.6 PRELIMINARY ENGINEERING 6
3.7 EXCEPTIONS AND DEVIATIONS FROM DEPARTMENT STANDARDS 6

ARTICLE 4. CONSTRUCTION WORK **8**

4.1 CONDITIONS PRECEDENT TO COMMENCEMENT OF CONSTRUCTION WORK 8
4.2 CONDITIONS PRECEDENT TO CONSTRUCTION OF PORTION OF PROJECT 8
4.3 CONDITIONS PRECEDENT FOR DEPARTMENT'S BENEFIT 8

ARTICLE 5. PROJECT MANAGEMENT **10**

5.1 SUPERVISION AND CONSTRUCTION PROCEDURES 10
5.1.1 Responsibility 10
5.1.2 Safety Program 10
5.1.3 Security 10
5.1.4 Adjoining Property 10
5.1.5 Differing Site Conditions 10
5.1.5.1 Notification to Department; Work Stoppage 10
5.1.5.2 Assumption of Risk 11
5.2 DEPARTMENT OVERSIGHT 11
5.2.1 Effect of Reviews, Inspections, Tests and Approvals 11
5.2.2 Inspection and Testing 11
5.2.3 Oversight Budget 12

ARTICLE 6. PROJECT RIGHT OF WAY ACQUISITION **13**

6.1 PROJECT RIGHT OF WAY ACQUISITION REQUIREMENTS 13
6.2 RIGHT OF WAY PLANS 14

6.3 ACQUISITION BY CONDEMNATION 14
6.4 ACQUISITIONS BY NEGOTIATION AND CONVEYANCES TO DEPARTMENT 15
6.5 HAZARDOUS SUBSTANCE INVESTIGATIONS AND REMEDIATION 15
6.6 ACQUISITION COSTS 16
6.7 CHANGES IN PROJECT RIGHT OF WAY LIMITS 17
6.8 RESIDUE PARCELS 17
6.9 RECORD DOCUMENTS 17

ARTICLE 7. UTILITIES 18

7.1 COMMENCEMENT OF UTILITY WORK 18
7.2 CONTRACTOR'S UTILITY RELOCATIONS OBLIGATIONS 18
7.2.1 Identification of Utilities 18
7.2.2 Avoiding Utility Relocations 18
7.2.3 Relocation Plan 19
7.2.4 Agreements with Utility Owners 19
7.2.5 Coordination of Work 19
7.3 PAYMENT FOR UTILITY WORK 19
7.4 OBLIGATIONS OF DEPARTMENT 20

ARTICLE 8. NOT USED 21

ARTICLE 9. TRAFFIC CONTROL AND RESTRICTIONS 22

9.1 CONSTRUCTION TRAFFIC MANAGEMENT PLAN 22
9.2 TRAFFIC CONTROL 22

ARTICLE 10. APPLICABLE LAW AND REGULATORY APPROVALS 23

10.1 OBLIGATION TO COMPLY WITH LAWS, REGULATIONS AND ORDINANCES AND REGULATORY APPROVALS 23
10.2 OBLIGATION TO OBTAIN REGULATORY APPROVALS 23
10.3 PAYMENT FOR REGULATORY APPROVALS 23
10.4 ACKNOWLEDGMENT REGARDING EIS 24

ARTICLE 11. WARRANTIES 25

11.1 WARRANTIES 25
11.2 EXTENSION OF WARRANTIES 25
11.3 SUBCONTRACTOR AND PASS-THROUGH EQUIPMENT WARRANTIES 26
11.4 ASSIGNMENT OF WARRANTIES 26
11.5 DAMAGES FOR BREACH OF WARRANTY 27
11.6 EXCLUSIVE REMEDY 27
11.7 HABITAT AND LANDSCAPING MAINTENANCE 27

ARTICLE 12. RECORDS AND INTELLECTUAL PROPERTY 28

12.1 MAINTENANCE OF, ACCESS TO AND AUDIT OF RECORDS 28
12.2 RETENTION OF RECORDS 28
12.3 PUBLIC RECORDS 29
12.4 REPORTING REQUIREMENTS 29
12.5 CONTRACTOR PRICING DOCUMENTS 30
12.6 SUBCONTRACTOR PRICING DOCUMENTS 30

12.7 INTELLECTUAL PROPERTY 30
12.8 TITLE TO WORK PRODUCT 32
12.9 INTELLECTUAL PROPERTY ESCROW 32
12.10 EQUIPMENT WARRANTIES 33

ARTICLE 13. CRITICAL PATH METHOD SCHEDULE 34

13.1 CPM/PAYMENT SCHEDULE 34
13.2 ALLOCATION OF CONTRACT PRICE 34
13.3 INITIAL CPM/PAYMENT SCHEDULE; MONTHLY UPDATES 34
13.4 CPM/PAYMENT SCHEDULE REQUIREMENTS 34

ARTICLE 14. COMPENSATION 35

14.1 CONTRACT PRICE 35
14.1.1 Contract Amount 35
14.1.2 ROW/Utility Allowance 35
14.1.3 Bridge Foundation Account 36
14.1.4 Items Included in Contract Price 37
14.2 PAYMENTS 37
14.2.1 Not Used 37
14.2.2 Delivery of Draw Request and Certificate 37
14.2.3 Not Used 37
14.2.4 Payment 37
14.2.5 Continued Performance During Disputes 38
14.2.6 Retainage 38
14.2.7 Not Used 39
14.2.8 Unincorporated Materials 39
14.2.8.7.1 Structural Units 40
14.2.8.7.2 Other Materials 40
14.2.8.7.3 Excluded Items 40
14.2.8.7.4 Storage 41
14.2.9 Equipment 41
14.2.10 Payment for Work Scheduled to be Performed After Final Acceptance 41
14.3 CONTINGENCY 41
14.4 OFFSET; REDUCTION; WAIVER 42
14.5 INCENTIVE PAYMENT 42
14.6 REIMBURSABLE SITE WORK 43
14.6.1 Before Completion of the Bridge Foundation Work 43
14.6.2 Upon Completion of the Bridge Foundation Work 43
14.6.3 After Completion of the Bridge Foundation Work 43

ARTICLE 15. FORCE MAJEURE 44

ARTICLE 16. QUALITY ASSURANCE AND QUALITY CONTROL 45

ARTICLE 17. TIME FOR COMPLETION; SUBSTANTIAL COMPLETION 46

17.1 TIME OF ESSENCE 46
17.2 GUARANTEED COMPLETION 46
17.2.1 Deadlines for Substantial Completion and Final Acceptance 46

17.2.2 No Time Extensions 46
17.3 SUBSTANTIAL COMPLETION 46

ARTICLE 18. ACCEPTANCE OF OVERCROSSINGS AND UNDERCROSSINGS; FINAL ACCEPTANCE 48

18.1 ACCEPTANCE OF OVERCROSSINGS AND UNDERCROSSINGS 48
18.2 FINAL ACCEPTANCE 48
18.3 ASSIGNMENT OF CAUSES OF ACTION 49
18.4 SPECIAL PROVISIONS REGARDING OUTSTANDING UTILITY AND PROJECT RIGHT OF WAY ISSUES 49

ARTICLE 19. CHANGES IN THE WORK 51

19.1 ACKNOWLEDGMENT AND WAIVER; MATTERS NOT ELIGIBLE FOR CHANGE ORDERS 51
19.1.1 Acknowledgment and Waiver 51
19.1.2 Matters Not Eligible for Change Orders 51
19.2 RIGHT TO RECEIVE ADDITIONAL PAYMENT AND EXTENSION OF TIME 52
19.3 DEPARTMENT DIRECTED CHANGES AND PROCEDURES 52
19.3.1 Directive Letter 52
19.3.2 Notice of Proposed Change/Direction 53
19.3.3 Payment for Directed Changes 54
19.3.4 Extension of Scheduled Completion Date 54
19.4 ELIGIBLE CONTRACTOR-INITIATED CHANGE ORDERS AND PROCEDURES 54
19.4.1 Eligible Changes 54
19.4.2 Procedures 55
19.4.2.1 RFC Notice 56
19.4.2.2 Delivery of Request for Change Order 57
19.4.2.2.1 Information Regarding Effect of Change 57
19.4.2.2.2 Justification 57
19.4.2.2.3 Contractor Representation 57
19.4.2.2.4 Cost Proposal 57
19.4.2.2.5 Structural or Capacity Reductions as a Result of a Discretionary Directed Change . 58
19.4.2.3 Incomplete Requests for Change Orders 58
19.4.2.4 Importance of Timely Response 58
19.4.2.5 Review of Subcontractor Claims 59
19.5 PRICING 59
19.5.1 Limitations 59
19.5.1.1 Limitation on Contract Price Increases 59
19.5.1.2 Limitation on Delay Costs 59
19.5.2 Pricing Methodologies 60
19.6 LIMITATION ON TIME EXTENSIONS 61
19.7 CHANGE ORDER RECORDS 61
19.7.1 Daily Work Reports and Data Collection 61
19.7.2 Supplier's Invoices 62
19.7.3 Execution of Reports 62
19.8 DISPUTES 62

ARTICLE 20. SUSPENSION OF ALL OR PART OF WORK 63

20.1 SUSPENSION FOR CONVENIENCE 63
20.2 SUSPENSION UNDER SECTION 25.4 63

20.3 SUSPENSION FOR OTHER REASONS 63
20.4 PROJECT SAFETY 63

ARTICLE 21. INDEMNITY; HAZARDOUS SUBSTANCE LIABILITY; INDEMNIFICATION PROCEDURES 64

21.1 INDEMNIFICATIONS BY CONTRACTOR 64
21.2 NO INDEMNITY REGARDING PRE-EXISTING HAZARDOUS SUBSTANCES 65
21.3 DEFENSE AND INDEMNIFICATION PROCEDURES 65

ARTICLE 22. INSURANCE AND BONDING 67

22.1 GENERAL AND AUTO LIABILITY INSURANCE 67
22.2 PROFESSIONAL LIABILITY INSURANCE 67
22.3 PROPERTY INSURANCE 67
22.4 WORKER'S COMPENSATION INSURANCE 68
22.5. OTHER INSURANCE COVENANTS 69
22.6 PERFORMANCE AND PAYMENT BONDS 70
22.7 COMPLETION GUARANTY 71

ARTICLE 23. CONTRACTING PRACTICES 72

23.1 OBLIGATION TO REFRAIN FROM DISCRIMINATION 72
23.2 DISADVANTAGED BUSINESS ENTERPRISES 72
23.3 MINORITY EMPLOYMENT AND CONTRACTING PROCEDURES 72
23.4 SUBCONTRACTS 72

ARTICLE 24. REPRESENTATIVES 74

24.1 DESIGNATION OF REPRESENTATIVES; COOPERATION WITH REPRESENTATIVES 74

ARTICLE 25. DEFAULT 75

25.1 DEFAULT OF CONTRACTOR 75
25.2 REMEDIES FOR CONTRACTOR EVENT OF DEFAULT 76
25.3 CERTAIN LIMITATIONS ON DEPARTMENT REMEDIES 77
25.4 FAILURE TO DELIVER PAYMENT; UNAVAILABILITY OF FUNDS 77
25.5 LIMITATION ON CONTRACTOR REMEDIES 78
25.6 LIQUIDATED DAMAGES 78
25.6.1 Amount 78
25.6.2 Payment Terms 79
25.7 LIMITATION ON CONSEQUENTIAL DAMAGES 79

ARTICLE 26. TERMINATION FOR CONVENIENCE 80

26.1 NOTICE OF TERMINATION 80
26.2 CONTRACTOR'S RESPONSIBILITIES AFTER RECEIPT OF NOTICE OF TERMINATION 80
26.3 INVENTORY 81
26.4 SETTLEMENT PROPOSAL 81
26.5 AMOUNT OF TERMINATION SETTLEMENT 81
26.6 NO AGREEMENT AS TO AMOUNT OF CLAIM 82
26.7 REDUCTION IN AMOUNT OF CLAIM 82
26.8 PAYMENT 82
26.9 INCLUSION IN SUBCONTRACTS 83

26.10 No Consequential Damages 83
26.11 No Waiver 83
26.12 Dispute Resolution 83

ARTICLE 27. DISPUTE RESOLUTION 84

ARTICLE 28. MISCELLANEOUS PROVISIONS 85

28.1 Incorporation of Miscellaneous Provisions in Comprehensive Agreement 85
28.2 Entire Agreement; Amendment 86
28.3 Explanations; Omissions, Misdescriptions, Inclusions without Limitation 86
28.4 Computation of Periods 87
28.5 Approvals 87
28.6 Payment of Tolls 87
28.7 Correspondence 87
28.8 Standard Specifications 87

APPENDICES

Appendix 1 - Definitions
Appendix 2 - Bridge Foundation Work -- Unit Prices
Appendix 3 - Form of Draw Request and Certificate
Appendix 4 - Form of Payment Bond
Appendix 5 - Form of Performance Bond
Appendix 6 - Scope of Work
Appendix 7 - Minority Business Enterprise Subcontracting Plan
Appendix 8 - Designation of Initial Representatives
Appendix 9 - Division 1, Standard Specifications

DESIGN-BUILD CONTRACT

This DESIGN-BUILD CONTRACT ("Contract") is made and entered into as of June 3, 1998, by and between the Virginia Department of Transportation, a department of the Commonwealth of Virginia ("Department"), and FD/MK Limited Liability Company, a Delaware limited liability company ("Contractor"), with reference to the following facts:

RECITALS

A. Concurrently herewith, Department and Contractor have entered into a Comprehensive Agreement concerning the design, construction, operation and maintenance of the Route 895 Connector as a limited access highway (the "Comprehensive Agreement"). This Contract is entered into pursuant to the Comprehensive Agreement.

B. The parties intend for this Contract to be a lump sum design-build contract obligating Contractor to perform all Work necessary to obtain completion of the Project by the deadlines specified herein, for the Contract Price, subject only to certain specified exceptions set forth herein. Department has determined, and Contractor has acknowledged, that this approach is necessary due to the fact that limited funds are available for the Project.

C. If Contractor fails to complete the Project in accordance with the time limitations set forth in the Contract Documents, then Department and Association will suffer losses and damages which are extremely difficult, if not impossible, to ascertain. This Contract Agreement thus provides that Contractor shall be liable for Liquidated Damages in the event such completion is delayed.

D. Department has provided Preliminary Engineering to Contractor which is to be the basis for the design to be furnished by Contractor. It is intended that Contractor will assume full responsibility and liability with respect to design of the Project, including the obligation to ensure that the Plans and Specifications are free from any errors, omissions, inconsistencies or other defects which may have been contained in the Preliminary Engineering.

NOW, THEREFORE, in consideration of the foregoing premises and the covenants and agreements set forth herein, the parties hereby agree as follows:

ARTICLE 1. DEFINITIONS; CONTRACT DOCUMENTS; ACCEPTANCE OF PRELIMINARY DESIGN AND PROJECT SITE

1.1 Certain Definitions

Appendix 1 contains the meaning of certain terms used in the Contract Documents. Division 1 of the Standard Specifications, attached hereto as Appendix 9, contains the meaning of certain technical terms.

1.2 Recitals

Recitals A through D are hereby incorporated by reference herein.

1.3 Order of Precedence

Each of the Contract Documents is an essential part of this Contract, and a requirement occurring in one is as binding as though occurring in all. The Contract Documents are intended to be complementary and to describe and provide for a complete contract. In the event of any conflict among the Contract Documents, this Contract and all Change Orders shall in all events control. With respect to the other Contract Documents the order of precedence shall be as set forth below.

(a) For design Work:

1. Scope of Work
2. Standard Specifications
3. Preliminary Engineering

(b) For all other matters:

1. Plans and Specifications, excluding any deviations from requirements of the other Contract Documents contained therein which have not been approved in writing as such by Department
2. Scope of Work
3. Standard Specifications

Unless otherwise specified by Department any reference in the Contract Documents to a described publication affecting any portion of the Project shall be deemed to mean the latest edition or revision thereof and amendments and supplements thereto in effect on the Agreement Date. Referenced standards and Regulatory Approvals obtained by Department which constitute Contract requirements shall have the same order of precedence as the Contract Document which references them.

1.4 Acceptance of Preliminary Engineering and Site Conditions

1.4.1 Contractor has reviewed the Preliminary Engineering and the Scope of Work and carefully evaluated the feasibility of performing the Work within the deadlines specified herein and for the Contract Price, without relying on any matter other than the Contract Documents, and has reasonable grounds for believing and does affirmatively believe that such performance (including achievement of Substantial Completion by the Guaranteed Completion Date for the Contract Price) is feasible and practicable.

1.4.2 Contractor has, prior to the Agreement Date, reviewed the preliminary geotechnical, hydrology and environmental reports included in the Scope of Work, inspected and examined the Site and surrounding locations and undertaken other appropriate activities sufficient to familiarize itself with surface conditions and subsurface conditions discernible from the surface affecting the Project to the extent Contractor deemed necessary or advisable for pricing the Project, and as a result of such review, inspection, examination and other activities Contractor is familiar with and accepts the physical requirements of the Work. Contractor further acknowledges and agrees that changes in conditions at the Site may occur after the Agreement Date, and that Contractor shall not be entitled to any Change Order in connection therewith except as specifically permitted under Article 19.

ARTICLE 2. CONTRACTOR'S DESIGN, PROCUREMENT AND CONSTRUCTION RESPONSIBILITIES

2.1 Design and Construction

Contractor shall furnish the design of the Project, shall construct the Project as designed, and shall furnish a fully operational ETTM System, in accordance with all professional engineering principles and construction practices generally accepted as standards of the industry in the State, in a good and workmanlike manner, free from Defects and in accordance with the terms and conditions set forth in the Contract Documents. Except as otherwise specifically provided in this Contract, Contractor shall be solely responsible for providing all equipment, materials, labor, services and efforts necessary to achieve Substantial Completion and Final Acceptance on or before the deadlines set forth herein; and, subject only to the terms of Article 19, the cost of all such equipment, materials, labor, services and efforts is included in the Contract Price.

2.2 Contractor Obligations

Contractor hereby covenants as follows:

2.2.1 Contractor shall furnish all design and other services, provide all materials, equipment and labor and undertake all efforts necessary or appropriate (excluding only those materials, equipment, labor, services and efforts which this Contract specifies will be undertaken by other Persons) to construct the Project in accordance with the requirements of the Contract Documents, the Reference Documents, the CPM/Payment Schedule, all Regulatory Approvals, the approved Quality Assurance and Control Inspection Program, the approved Safety Program, the approved Construction Traffic Management Plan and all other applicable safety, environmental and other requirements, taking into account the Project Right of Way limits and other physical limits resulting from constraints affecting the Project, so as to achieve Substantial Completion and Final Acceptance by the deadlines specified herein, and otherwise to do in a timely manner everything required by and in accordance with the Contract Documents.

2.2.2 All design and engineering Work shall be performed by or under the supervision of Persons licensed to practice architecture, engineering or surveying (as applicable) in the State, by personnel with demonstrated competence, integrity, responsibility and professional qualifications necessary for the satisfactory performance of the Work in accordance with the Contract Documents. Such Persons shall assume professional responsibility for the accuracy and completeness of the Construction Documents prepared by them and shall exercise their skill, ability and judgment reasonably for Department's benefit.

2.2.3 Contractor shall at all times provide a Project Manager approved by Department who will have responsibility for the prosecution of the Work and who will act as a single point of contact in all matters on behalf of Contractor. Contractor shall not change the Project Manager without the prior written approval of Department.

2.2.4 Contractor shall obtain and pay the cost of obtaining all Regulatory Approvals required in connection with the Project (except as provided otherwise in Section 10.3).

2.2.5 Until the Transition Date, Contractor shall undertake and properly perform all actions required by and all actions necessary to maintain in full force and effect all Regulatory Approvals, including performance of all environmental mitigation measures required by the Contract Documents.

2.2.6 Contractor shall cooperate with Department and local agencies in all matters relating to the Project, including review of the design of the Project and conducting inspections during the construction of the Project.

2.2.7 Contractor shall supervise and be responsible to Department for acts and omissions of Contractor's employees, agents, officers and Subcontractors and other Persons performing portions of the Work, as though all such Persons were directly employed by Contractor.

2.2.8 Contractor waives any right to file or enforce any mechanics liens. Contractor acknowledges that consideration for such waiver is reflected in the Contract Price. Contractor shall require each Subcontractor to waive its right to file or enforce any mechanics liens.

2.2.9 Contractor shall design and perform the Bridge Foundation Work, to the extent practicable, to avoid exacerbating the migration of the Pre-Existing Hazardous Substances.

2.3 ETTM System

2.3.1 Contractor will competitively price the ETTM System after the Plans and Specifications have been approved by Department's Chief Engineer. If the total cost of the ETTM System Work (including all such Work performed prior to approval of the Plans and Specifications) exceeds $3,437,978, the difference, up to a maximum of $542,101, will be payable from the Contingency, to the extent available. In no event shall Contractor be entitled to reimbursement for the cost of the ETTM System Work in excess of $3,980,079.

2.3.2 Each Subcontractor and vendor related to the ETTM System shall be subject to Department's prior written approval.

ARTICLE 3. PLANS AND SPECIFICATIONS

3.1 Commencement of Design Work

Contractor shall commence performance of design and other non-construction Work, and shall ensure that performance of such Work is commenced by its Subcontractors, promptly following the Financial Closing Date. Contractor may commence performance of such Work prior to the Financial Closing Date "at risk," with the right to be paid contingent on the occurrence of the Financial Closing Date and compliance with the other applicable provisions set forth herein. Notwithstanding the foregoing, Department agrees that an amount not to exceed $1,500,000 will be made available prior to the Financial Closing Date to pay for such Work, provided that Department has pre-approved the scope of such Work and the amount of the Contract Price allocated to the Work activities. Contractor shall in no event be entitled to payment prior to the Financial Closing Date for any appraisals or title work.

3.2 In-Progress Review

Contractor shall provide Department with the opportunity to perform continuous review and overview of the design through a series of design reviews incorporated into an agreed upon schedule. Contractor shall furnish a schedule for provision and review of design submittals which shall be subject to approval by Department. Contractor shall cause all design submittals to be produced and delivered to Department, the State Architect, local agencies and any other Persons whose approval is required, in compliance with the requirements of the Scope of Work, within the time periods set forth in the submittal schedule.

3.3 Design Approval

Department shall have the right to review and comment on all Draft Plans and Specifications for compliance with the requirements of the Contract Documents and Reference Documents. Contractor acknowledges that it is responsible for satisfying all such requirements and that Department will have the right to disapprove any design approach that is not consistent with the Preliminary Engineering or that is not in compliance with the requirements of the Contract Documents and Reference Documents unless said approach was previously approved in writing by Department. Provided that Department has the opportunity to perform continuous review and overview of the design as provided in Section 3.2, Department's Chief Engineer's review of the completed Draft Plans and Specifications shall be conducted within 15 Business Days after receipt thereof. Contractor shall revise and modify all such documents or materials so as to fully reflect all comments and shall deliver to Department the revised submittal for review and comment. Department's right to review and comment, and Contractor's responsibility to comply with the requirements of the Contract Documents and Reference Documents, shall be subject to the provisions of Section 13.1 of the Comprehensive Agreement.

3.4 Review Deadlines

Department shall use reasonable efforts to accommodate requests by Contractor for a quick turnaround of specific design submittals. Contractor acknowledges that expediting the review of prioritized submittals may result in a delay in review of lower priority submittals. Department and Contractor shall work cooperatively to prioritize the different submittals and achieve an acceptable review schedule. Contractor shall bear full responsibility for obtaining approvals from the State Architect, local agencies and others, provided that Department will use reasonable efforts to expedite critical approvals from such entities, if and as requested by Contractor.

3.5 Status of Design at Commencement of Work

Contractor shall have no right to rely on any of the documentation or information provided by Department or other Persons, other than the Contract Documents. Contractor shall have full responsibility for the design of the Project. Contractor represents that it has independently determined that the Preliminary Engineering present a feasible concept for the Project which can and shall be used as the basis for the design to be furnished by Contractor, and agrees that it shall have no right to seek additional compensation or a time extension, except as specifically permitted by Article 19.

NO REPRESENTATION OR WARRANTY IS MADE TO ANY CONTRACTOR PARTY, ASSOCIATION, TRUSTEE OR ANY BOND OWNER BY DEPARTMENT OR ANY OTHER PERSON THAT THE INFORMATION CONTAINED IN THE PRELIMINARY ENGINEERING OR REFERENCE DOCUMENTS IS CORRECT, SUFFICIENT, COMPLETE OR ACCURATE OR THAT SUCH INFORMATION IS IN CONFORMITY WITH THE REQUIREMENTS OF THE EIS OR THE OTHER CONTRACT DOCUMENTS, NOTWITHSTANDING THE FACT THAT DEPARTMENT'S CHIEF ENGINEER SIGNED THE PRELIMINARY ENGINEERING. SUCH SIGNATURE IS SOLELY FOR THE PURPOSE OF INDICATING THAT DEPARTMENT HAS COMPLETED ITS REVIEW OF THE PRELIMINARY ENGINEERING AND REQUIRES NO CHANGES THERETO. WITH RESPECT TO THE PRELIMINARY ENGINEERING AND REFERENCE DOCUMENTS DEPARTMENT SHALL HAVE THE FULL BENEFIT OF SECTION 13.1 OF THE COMPREHENSIVE AGREEMENT.

3.6 Preliminary Engineering

Contractor understands and agrees that Department shall not be responsible or liable in any respect for any loss, damage, injury, liability, cost, expense or cause of action whatsoever suffered by Contractor, its employees, agents, officers or Subcontractors or any other Persons for whom Contractor may be legally or contractually responsible, by reason of any use of any information contained in the Preliminary Engineering or any action or forbearance in reliance thereon, except to the extent that Article 19 provides for an increase in the Contract Price and/or extension of the Guaranteed Completion Date with respect to such matter. Contractor further acknowledges and agrees that Contractor is capable of conducting and is obligated hereunder to conduct any and all studies, analyses and investigations as it deems advisable to verify or supplement said information, and that any use of said information is entirely at Contractor's own risk and at its own discretion.

3.7 Exceptions and Deviations from Department Standards

3.7.1 Department will reasonably consider Contractor's requests for exceptions to the Department Standards, in addition to the modifications already reflected in Appendix 9, as they relate to means and methods of construction that are not necessary or appropriate for design-build implementation.

3.7.2 Contractor may apply for deviations from applicable Department Standards. All applications shall be in writing and shall include justification for the request, addressing safety and cost considerations. Department shall consider in good faith, but has no obligation to approve, any such application, and Contractor shall bear the burden of persuading Department that the deviation sought constitutes sound and safe engineering and achieves or substantially achieves Department's applicable safety standards and criteria. No deviation shall exist or be effective unless and until stated in writing signed by Department. Department's failure to issue a written approval of a requested deviation within 21 Days after Contractor applies therefor in writing shall be deemed an approval of such application.

Department's determination regarding Contractor's application for a deviation shall be final and shall not be subject to dispute resolution hereunder.

3.7.3 Contractor may apply for approvals from Department of interpretive engineering decisions concerning the meaning, scope, interpretation and application of the Department Standards. All applications for such approvals shall be in writing. Department may issue a written approval of Contractor's proposed interpretive engineering decision (if any), may issue its own interpretive engineering decision or may disapprove any interpretive engineering decision Contractor proposes. Department's failure to issue a written approval or of Contractor's own interpretive engineering decision within 21 Days after Department received Contractor's written application shall be deemed an approval of such application. Department's determination regarding Contractor's application for an interpretive engineering decision shall be final but subject to dispute resolution hereunder.

3.7.4 In the event that Department reverses a written deviation or interpretive engineering decision previously given under Section 3.7.2 or 3.7.3, such reversal shall constitute a Directed Change.

ARTICLE 4. CONSTRUCTION WORK

4.1 Conditions Precedent to Commencement of Construction Work

Except as provided otherwise in Section 7.1, Contractor shall have no right to commence construction Work unless and until the following conditions, in addition to the conditions set forth in Section 4.2, are satisfied or unless Department, in its sole discretion, waives any such condition in writing:

4.1.1 the Financial Closing Date shall have occurred;

4.1.2 Department shall have approved in writing the initial designation of Construction Segments;

4.1.3 Department shall have approved the CPM/Payment Schedule, Quality Assurance and Control Inspection Program, Safety Program and Construction Traffic Management Plan;

4.1.4 Contractor shall not then be in breach of any material requirement of the Contract Documents or the other Project Agreements to which it is a party, including requirements regarding non-discrimination, minority employment and disadvantaged business enterprises;

4.1.5 all required insurance policies and bonds shall have been received by Department; and

4.1.6 there exists no court order which restrains, enjoins, challenges or delays performance of the Work or the granting or renewal of any Regulatory Approval.

4.2 Conditions Precedent to Construction of Portion of Project

Contractor shall have no right to commence construction of any portion of the Project unless and until all of the following conditions, in addition to the conditions set forth in Section 4.1, are satisfied or unless Department in its sole discretion waives any such condition in writing, and Contractor shall commence such construction promptly following satisfaction of all such conditions and the conditions set forth in Section 4.1:

4.2.1 Department's Chief Engineer shall have approved in writing the Plans and Specifications for such portion of the Project;

4.2.2 all Regulatory Approvals necessary for construction of the applicable portion of the Project shall have been obtained and all conditions of such Regulatory Approvals which are a legal prerequisite to commencement of such construction shall have been satisfied; and

4.2.3 all necessary rights of access shall have been obtained for such portion of the Project.

4.3 Conditions Precedent for Department's Benefit

All the conditions precedent set forth in this Article 4 are for the sole benefit of Department. Any condition precedent may be waived by Department; provided, however, that no person or entity shall be entitled to assume that Department will waive or refuse to waive any condition precedent in the absence of strict compliance therewith. No waiver of any condition precedent shall be enforceable unless in writing signed by Department. Unless Department waives a condition precedent which requires action

by Contractor to be satisfied, Contractor shall remain bound to use diligent efforts to satisfy the condition precedent.

ARTICLE 5. PROJECT MANAGEMENT

5.1 Supervision and Construction Procedures

5.1.1 Responsibility

Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures and Site safety and for coordinating all portions of the Work under the Contract Documents, subject, however, to all requirements contained in the Contract Documents.

5.1.2 Safety Program

Contractor shall have full responsibility for jobsite safety, including provision of and compliance with a Safety Program satisfactory to Department. Department will advise Contractor of situations which Department deems unsafe and shall have the right to require Work to be stopped as specified in Section 20.3. Contractor shall take all reasonable precautions and be responsible for the safety of, and shall provide protection to prevent damage, injury or loss to: (a) all employees of Contractor and its Subcontractors performing the Work and other persons (including employees of Department) who are on Site or would reasonably be expected to be affected by the Work; (b) the Work and materials and equipment to be incorporated therein; and (c) other property at or adjacent to the Site.

5.1.3 Security

Until the Final Acceptance Date, Contractor shall provide full-time security for the Site.

5.1.4 Adjoining Property

Contractor shall ensure that all of its activities and the activities of its employees, agents, officers and Subcontractors and all other Persons for whom Contractor may be legally or contractually responsible are undertaken in a manner that will reasonably minimize the effect on surrounding property and the public.

5.1.5 Differing Site Conditions

The procedures set forth in this Section 5.1.5 shall apply in the event of Contractor's discovery of any Differing Site Conditions.

5.1.5.1 Notification to Department; Work Stoppage

In the event of any such discovery, Contractor shall, within the close of the second Business Day following such discovery, notify Department thereof telephonically or in person, to be followed immediately by written notification. Contractor shall immediately stop Work in and secure the affected area. In such event, Department shall have the right, but not the obligation, to view the location. Following the close of the second Business Day following written notice to Department, Contractor may proceed with the Work, provided it can do so in compliance with all applicable requirements of the Contract Documents and Reference Documents. Contractor shall keep Department apprised regarding actions which it is taking to assure compliance with all such requirements. The notification and work stoppage described above constitute a condition precedent to Contractor's right to file a Request for Change Order.

5.1.5.2 Assumption of Risk

Contractor acknowledges and agrees that it shall not be entitled to any increase in the Contract Price for additional costs of performing the Work associated with any of the above-described conditions, except to the extent of any Change Order issued under Article 19. Contractor acknowledges and agrees that Contractor's right to obtain a time extension with respect to delays caused by such conditions is subject to the limitations and conditions contained in Article 19.

5.2 Department Oversight

5.2.1 Effect of Reviews, Inspections, Tests and Approvals

Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents by reviews, tests, inspections or approvals performed by any Persons, or by any failure of any Person to take such action. Subject to Section 3.7.4, the reviews, inspections, tests and approvals conducted by Department, Trustee, Governmental Persons and others do not constitute acceptance of the materials or Work reviewed, tested or inspected, and Department may reject or accept any Work or materials, request changes and/or identify additional Work which must be done at any time prior to the Final Acceptance Date, whether or not previous reviews, inspections, tests or approvals were conducted by any such Persons.

5.2.2 Inspection and Testing

5.2.2.1 Contractor shall perform whatever inspection, sampling and testing Contractor deems appropriate in order to comply with its obligations under the Contract Documents.

5.2.2.2 The QA Manager shall be responsible for inspecting and testing in accordance with the Quality Assurance and Control Inspection Program.

5.2.2.3 During the construction of the Project and until the Final Acceptance Date, Department shall designate two qualified staff engineers to perform Oversight Services and to provide necessary coordination with Contractor. Such Department representatives shall have full and complete access to the Project, the Work in progress, the "daily diaries," and to other technical documents and Project records associated with quality control, materials verification, materials installation and testing. Contractor shall give such Department representatives not less than two Business Days prior notice of and opportunity to participate in any meetings described in the Quality Assurance and Control Inspection Program attached to the Scope of Work.

5.2.2.4 All materials and each part or detail of the Work shall also be subject to inspection and testing by Department and Trustee. Contractor shall not be entitled to any additional compensation or time so long as any such inspection and testing reasonably conforms to the CPM/Payment Schedule. Such inspection does not make such Person a party to this Contract nor will it change the rights of the parties hereto. Contractor hereby consents to such inspection and testing. Upon request from Department, Contractor shall furnish information to such persons as are designated in such request and shall permit such persons access to all parts of the Work.

5.2.2.5 At all times before Final Acceptance, Contractor shall remove or uncover such portions of the finished construction Work as directed by Department. After examination by any Persons designated by Department, Contractor shall restore the Work to the standard required by the Contract Documents. If the Work exposed or examined is not in conformance with the requirements of the

Contract Documents, then uncovering, removing and restoring the Work and recovery of any delay to any Critical Path occasioned thereby shall be at Contractor's cost. Furthermore, any Work done or materials used without adequate notice to and opportunity for prior inspection by Department may be ordered uncovered, removed or restored at Contractor's cost, even if the Work proves acceptable after uncovering. Except with respect to Work done or materials used as described in the foregoing sentence, if Work exposed or examined under this Section 5.2.2.5 is in conformance with the requirements of the Contract Documents, then any delay in any Critical Path from uncovering, removing and restoring Work shall be considered a Department-Caused Delay, and Contractor shall be entitled to a Change Order for the cost of such efforts and recovery of any delay to any Critical Path occasioned thereby.

5.2.3 Oversight Budget

The Project budget includes a budget for all of Department's Oversight Services described in Section 10.2(c) of the Comprehensive Agreement in the amount of $630,000 (the "Oversight Budget"). Department shall be paid for such Oversight Services from the Oversight Budget, provided that any Oversight Budget overruns will automatically be paid from the Contingency, to the extent available. Upon receipt of a written invoice for any such costs from Department, Contractor shall submit such costs with its next Draw Request and Certificate to Trustee under Section 14.2.2 for payment directly to Department.

ARTICLE 6. PROJECT RIGHT OF WAY ACQUISITION

Contractor shall be responsible for acquiring the Project Right of Way as specified in this Article 6.

6.1 Project Right of Way Acquisition Requirements

6.1.1 Prior to commencement of any Project Right of Way acquisitions, Contractor shall prepare and obtain Department's approval of the Right of Way Acquisition Plan.

6.1.2 Contractor shall comply with all laws, rules, regulations, and ordinances applicable to right of way acquisitions by Department, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended, 42 U.S.C. Section 4651 et seq. and any amendments thereto, as supplemented by the regulations of 49 C.F.R. Part 24, and Title 25, Chapter 6, Section 25-235 et seq., Code of Virginia. Contractor's activities shall also be in substantial conformity with Department's Right of Way Manual of Instructions as modified by the Right of Way Acquisition Plan approved by Department.

6.1.3 All real property interests Contractor acquires for the Project shall be as specified on the Right of Way Plans approved by Department as part of the Preliminary Engineering, which will generally be fee simple title or other type of real property interest acceptable to Department, conveyed by a general warranty deed, subject only to conditions of title that may be acceptable to Department in its sole discretion. Permanent easements for drainage or slopes, utility easements, limited access rights, and temporary construction easements shall be included as part of the same transfer document or be transferred by separate instrument, when so indicated in the Right of Way Acquisition Plan.

6.1.4 All persons or firms Contractor intends to use in performing any portion of the acquisitions shall meet Department's Consultant Prequalification Guidelines.

6.1.5 Contractor shall exercise reasonable care in determining whether there is reason to believe that property to be acquired for the Project Right of Way may contain concealed or hidden wastes or other materials or hazards requiring remediation or treatment, and shall take the steps specified in Section 6.5 to investigate such possibilities where they are reasonably determined to exist. Contractor shall notify Department of any concerns regarding such materials on property to be acquired for the Project Right of Way to allow Department to consider whether and in what form it wishes title to be acquired.

6.1.6 Contractor shall cause all persons performing acquisition activities by or on behalf of Contractor to maintain a complete, legible diary of each contact. The diary shall include the time, place, amount of offer, to whom any offer is made, all parties present, and the response of the owner or its representative. The diary is to be retained for permanent records and made available to Department upon request. In addition, Contractor shall furnish to Department, upon request, miscellaneous correspondence and written recommendations regarding future negotiations.

6.1.7 All persons performing acquisition activities by or on behalf of Contractor shall be available for consultation and testimony (including discussion of diary notes and acquisition events) with Department representatives during and after completion of acquisitions.

6.1.8 Except for disclosures to Department or to attorneys designated and appointed by the State Attorney General and other disclosures Department first approves in writing, Contractor shall keep

strictly confidential and not disclose any diaries, notes, correspondence, documents, agreements, appraisals or other information pertaining to or arising out of Contractor's acquisition work and activities.

6.2 Right of Way Plans

6.2.1 Department has approved the acquisition of parcels as shown in the Right of Way Plans.

6.2.2 In the event that Contractor desires to obtain any parcels not covered by the approved Right of Way Plans, Contractor shall submit a revision to the plans to Department and shall obtain Department's approval thereof, prior to undertaking any negotiations or other work with respect to any new parcels required to be obtained.

6.3 Acquisition by Condemnation

6.3.1 Contractor may request Department to institute eminent domain proceedings only after complying with the requirements for negotiations and the approved Right of Way Acquisition Plan. Contractor shall initiate such process by submittal of a complete set of the documents identified in Section 6.3.2 to Department.

6.3.2 The following documents are required to be included in the condemnation package:

(a) A request for initiation of condemnation proceedings signed by an authorized representative of Contractor, identifying the parcel and certifying that the requirements for negotiations and the approved Right of Way Acquisition Plan have been satisfied;

(b) A copy of Contractor's written offer to the property owner;

(c) A legal description of the parcel;

(d) A fair market value appraisal and review appraisal;

(e) A 60-year title examination (including copies of documents identified in all exceptions listed therein and a plot of all easements identified therein);

(f) The studies and analyses required by Section 6.5, including, in the event that the studies and analyses show any Hazardous Substances within the real property interests to be conveyed, a copy of any remediation or containment plan approved by the Department of Environmental Quality or the United States Environmental Protection Agency as described in Section 6.5.3; and

(g) A certified check in the amount of the fair market value payable to the Clerk of the Court or as otherwise directed by Department.

6.3.3 Department shall make a determination whether the proposed condemnation will serve the public purpose of the Legislation within 15 Business Days of receiving a complete condemnation package from Contractor. Within 2 Business Days after making such determination, Department shall execute and deliver to Contractor a Certificate of Take pursuant to Title 33, Chapter 1, Article 7, Code of Virginia. Contractor shall promptly file the Certificate of Take thereafter. Eminent domain proceedings shall be prosecuted by the Office of the Attorney General through a designated appointed attorney.

Department shall consult with Contractor regarding the settlement of any proceeding, provided that all decisions regarding the settlement of any proceeding shall solely rest with Department.

6.3.4 In any proceeding brought pursuant to its condemnation power, Department shall, upon Contractor's request, reasonably consider any and all theories of valuation Contractor seeks to employ supported by a fair market value appraisal.

6.4 Acquisitions by Negotiation and Conveyances to Department

6.4.1 Department shall accept title to property as shown on the Right of Way Plans upon presentation of the following documents by Contractor:

(a) A copy of the conveyance and other closing documents;

(b) An approved fair market value appraisal and review appraisal meeting Department's requirements and showing a value which supports the acquisition price;

(c) For all parcels where fee simple title is being acquired or where the consideration is greater than $10,000 for any other type of property rights being acquired other than temporary construction easements, an A.L.T.A. extended coverage owner's policy of title insurance (1992 or 1970 form) issued by a title insurance company acceptable to Department (including copies of documents identified in all exceptions listed therein and a plot of all easements identified therein); and

(d) The studies and analyses required by Section 6.5, including, in the event that the studies and analyses show any Hazardous Substances within the real property interests to be conveyed, a copy of any remediation or containment plan approved by the Department of Environmental Quality or the United States Environmental Protection Agency as described in Section 6.5.3.

6.4.2 Department will pre-approve forms to be used for purchase agreements and conveyance documents so that only the business terms and any revisions to the pre-approved forms will require approval by Department.

6.4.3 Contractor shall be responsible for tracking the funds and for ensuring that the conveyance documents are recorded and that Department receives a complete set of closing documents within 30 Days following the closing.

6.5 Hazardous Substance Investigations and Remediation

6.5.1 Contractor shall cause studies and analyses to be performed on all properties to be acquired by a qualified independent environmental consultant and in accordance with good commercial and customary practice for conducting an environmental site assessment of a parcel of commercial real estate with respect to the range of contaminants within the scope of the Comprehensive Environmental Response Compensation and Liability Act and petroleum products. Such studies and analyses shall constitute "all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial and customary practice" as defined in 42 U.S.C. section 9601(35)(B). Contractor shall submit the results of such studies to Department for a determination whether Department will require further studies and analyses. In the event Department requires further studies and analyses, Contractor and Department shall jointly develop the minimum standards for such further studies and analyses. Contractor shall submit the results of any further studies and analyses to Department.

6.5.1.1 Notwithstanding anything herein to the contrary, because of the existence of studies previously performed by Department, the preceding requirements shall not apply to (and only to) acquisition of the properties located directionally west of the James River owned by the following parties: County of Chesterfield (Falling Creek Sewage Treatment Plant), E.I. Dupont de Nemours, Star Enterprise, Ryder Truck Rental Co., and CSX Railroad Co.

6.5.1.2 The requirements of this Section 6.5.1, including the exception provided in Section 6.5.1.1, shall not relieve Contractor from performing additional investigation of any properties necessary to ensure proper management of contaminated construction residuals and providing worker and environmental protection from hazardous conditions during the course of construction, or from otherwise complying with all applicable Laws, Regulations and Ordinances.

6.5.2 In the event that such studies and reports indicate the presence of Hazardous Substances on the property, Department's Chief Engineer or his or her designated representative shall determine whether Department is willing to consider an acquisition notwithstanding the presence of such Hazardous Substances.

6.5.3 If Department is willing to consider the acquisition, Contractor shall obtain approval of any containment or remediation plans from the Department of Environmental Quality or the United States Environmental Protection Agency, or otherwise coordinate its activities through these agencies.

6.5.4 If Department determines that it is not willing to proceed with the acquisition or that the requirements associated with containment or remediation are unacceptable, Contractor shall be responsible for identifying alternative property acceptable to Department.

6.5.5 Contractor shall not knowingly transfer or cause to be transferred to Department any contaminated property without a containment or remediation plan approved by, or otherwise coordinated through, the Department of Environmental Quality or the United States Environmental Protection Agency.

6.5.6 Contractor will bear the cost of implementing any containment or remediation plan at its own expense, without any entitlement to reimbursement for its additional expenses associated therewith or a time extension, unless and to the extent provided otherwise in Article 19. In the event that Department is unwilling to acquire any contaminated property, Contractor will bear the cost of redesign and working around the contaminated site at its own expense, without any entitlement to reimbursement for its additional expenses associated therewith or a time extension, unless and to the extent provided otherwise in Article 19.

6.6 Acquisition Costs

6.6.1 Contractor's Project Right of Way acquisition costs are subject to reimbursement solely from the ROW/Utility Allowance or the Contingency, as set forth in Sections 14.1.2 and 14.3, except as provided otherwise in Section 6.5.6, and provided that Contractor shall be responsible, at its own cost and expense, without any entitlement to reimbursement, for acquisition of any property or temporary easements or other property rights outside of the Project Right of Way limits which Contractor determines is necessary to accommodate its construction methods, or to facilitate temporary Utility Relocations. Payment for Project Right of Way acquisition costs shall be limited to the eligible expenses stated in Section 14.1.2.3.

6.6.2 Department shall be entitled to full reimbursement for its costs (incurred both before and after the Financial Closing Date) in connection with the Project Right of Way acquisition, as more particularly described in Section 10.2(b) of the Comprehensive Agreement. Such reimbursement shall be paid first from the ROW/Utility Allowance, to the extent available, and second from the Contingency, to the extent available. Upon receipt of a written invoice for any such costs from Department, Contractor shall submit such costs with its next Draw Request and Certificate to Trustee under Section 14.2.2 for payment directly to Department.

6.6.3 If not previously paid by Contractor, funds for acquisition purchase prices and condemnation awards shall be paid by Trustee directly to the escrow respecting the purchase or to the court respecting the condemnation first from the ROW/Utility Allowance, to the extent available, and second from the Contingency, to the extent available. Contractor shall identify each such recipient as the payee in the Draw Request and Certificate under Section 14.2.2 which requests funds for such purpose.

6.7 Changes in Project Right of Way Limits

Department's Chief Engineer's prior written consent is required for any changes in the Project Right of Way limits shown on the Preliminary Engineering.

6.8 Residue Parcels

Whenever indicated on the approved Right of Way Plans or when determined by Contractor during negotiations, uneconomic residue parcels, to the extent possible by law, shall be acquired as part of the acquisition. All residue parcels acquired in connection with the Project shall be conveyed to Department for management and disposal. All monetary proceeds received from the management or disposal of these residue parcels prior to the Final Acceptance Date shall be deposited into the Contingency. All proceeds received from the management or disposal of these residue parcels after the Final Acceptance Date shall be the sole property of Department.

6.9 Record Documents

Contractor shall provide to Department a complete set of right of way conveyance documents indicating the date and recordation data for each tract or parcel, along with an annotated set of the approved Right of Way Plans.

ARTICLE 7. UTILITIES

This Article 7 sets forth provisions relating to utility facilities affected by the Project (that is, public, private, cooperative, municipal and/or government utility facilities used for the carriage, transmission and/or distribution of cable television, electric power, telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, sewage, drainage and similar utility lines). A preliminary survey of utilities likely to be impacted by the Project has been performed and the results are shown in the Preliminary Engineering. Contractor bears full responsibility for ascertaining the existence and exact location and size of all affected facilities.

7.1 Commencement of Utility Work

Contractor shall commence Work relating to Utility Relocations promptly after the Financial Closing Date. Contractor may commence performance of such Work prior to the Financial Closing Date "at risk," with the right to be paid contingent on the occurrence of the Financial Closing Date and compliance with the other applicable provisions set forth herein.

7.2 Contractor's Utility Relocations Obligations

Contractor is responsible for causing all necessary Utility Relocations to occur in a timely fashion, including Utility Relocations which were not identified or indicated with reasonable accuracy in the Preliminary Engineering. Contractor shall comply with Title 56, Chapter 22, Section 56-570, Code of Virginia, in such efforts. Contractor shall obtain and process for payment final billings for any utility protection, adjustment, or relocation within 120 Days after the utility work has been completed. Contractor shall certify to Department that all eligible costs have been paid and there are no outstanding claims pending with a utility owner. Contractor shall perform the Utility Relocations (including the design of both horizontal and vertical alignments) to be consistent with the Ultimate Design (as defined in the Scope of Work), such that the construction of the Ultimate Design shall not require any further removal or relocation of such utilities, or any further installation of permanent protection structures therefor.

7.2.1 Identification of Utilities

Contractor shall be responsible for identifying all utilities affected by the proposed construction and shall establish if the utility has reimbursable rights, as outlined in Volume II of the Right of Way Manual of Instructions. Subject to Section 7.4.1, any necessary protection, adjustment or relocation required shall be ascertained and paid by Contractor.

7.2.2 Avoiding Utility Relocations

The location of utility facilities and potential impact of Utility Relocations of such facilities shall be considered in accordance with Department's Utility Accommodation Policy in finalizing the design of the Project, with the following goals with respect to both the Project and the Ultimate Design (as defined in the Scope of Work): (a) avoiding Utility Relocations to the extent practicable; (b) if a Utility Relocation is not reasonably avoidable, protecting the facility in place to the extent practicable; and (c) otherwise minimizing the potential costs and delays relating to Utility Relocations to the extent practicable.

7.2.3 Relocation Plan

Contractor shall be responsible for preparing and implementing a relocation plan for all affected utilities. Such plan shall comply with all requirements contained in Title 56, Chapter 22, Section 56-570, Code of Virginia and shall be submitted to and approved by Department before commencement of construction work for affected utilities.

7.2.4 Agreements with Utility Owners

Contractor shall enter into a written agreement with each affected utility (see Volume II, Right of Way Manual of Instructions, for examples) providing for the appropriate protection, adjustment, or relocation of the utility facilities and setting forth the terms and conditions under which said work will be performed, the cost responsibility, and payments to be made therefor, provided that Department shall enter into any such agreement with an affected utility upon Contractor's request if it would result in a Project cost savings and the form of agreement is acceptable to Department. Department will assist in negotiations with utility owners as reasonably requested by Contractor. Contractor shall have no right to enter into any agreement with a utility owner which purports to bind Department to its terms. In no event shall Department be required to make any payment to any utility owner, except pursuant to a direct agreement between Department and a utility owner. In no event shall any agreement with a utility owner be deemed to modify the terms of this Contract, and in the event of any conflict between the terms of any such agreement and the terms of the Contract Documents, the Contract Documents shall prevail as between Department and Contractor.

7.2.5 Coordination of Work

Contractor shall be responsible for coordinating the work of its Subcontractors and the various utilities. The resolution of any conflicts between utilities and the construction of the Project shall be the responsibility of Contractor.

7.3 Payment for Utility Work

7.3.1 All efforts necessary in order to cause Utility Relocations to occur are included in the Work. Costs of undertaking such efforts are subject to reimbursement solely from first, the ROW/Utility Allowance, to the extent available, and second, the Contingency, to the extent available. Payment for Utility Relocations costs shall be limited to the eligible expenses stated in Section 14.1.2.2.

7.3.2 Department shall be entitled to full reimbursement for its costs in connection with the Utility Relocations, as more particularly described in Section 10.2(b) of the Comprehensive Agreement. Such reimbursement shall be paid first from the ROW/Utility Allowance, to the extent available, and second from the Contingency, to the extent available. Upon receipt of a written invoice for any such costs from Department, Contractor shall submit such costs with its next Draw Request and Certificate to Trustee under Section 14.2.2 for payment directly to Department.

7.3.3 If not previously paid by Contractor, funds to pay utility owners in connection with Utility Relocations shall be paid by Trustee directly to the utility owner respecting the Utility Relocation first from the ROW/Utility Allowance, to the extent available, and second from the Contingency, to the extent available. Contractor shall identify each such recipient as the payee in the Draw Request and Certificate under Section 14.2.2 which requests funds for such purpose.

7.4 Obligations of Department

7.4.1 To the maximum extent available, Department shall provide to Contractor the benefit of any provisions in permits, easements and franchises affecting the Project which require the holders thereof to relocate at their expense.

7.4.2 Department shall, at Contractor's sole cost, issue land use permits for utilities needing to cross the Project Right of Way and shall ensure that the installations are in compliance with Department's Land Use Permit Manual.

ARTICLE 8. NOT USED

ARTICLE 9. TRAFFIC CONTROL AND RESTRICTIONS

9.1 Construction Traffic Management Plan

9.1.1 Contractor shall prepare and provide to Department a Construction Traffic Management Plan approved by Department as a condition precedent to commencing construction Work. The Construction Traffic Management Plan shall be prepared and implemented to promote safe and efficient operation of adjacent public transportation facilities and State Highways at all times during the course of construction of the Project.

9.1.2 The Construction Traffic Management Plan shall comply with all applicable Contract Documents and Reference Documents, including the Section of the Scope of Work entitled "Maintenance of Traffic" and Sections 104.4, 107.7 and 107.10 of the Standard Specifications.

9.2 Traffic Control

Subject to Department oversight, Contractor shall provide or cause to be provided traffic management and operations services in compliance with and to the extent required of Contractor by the approved Construction Traffic Management Plan.

ARTICLE 10. APPLICABLE LAW AND REGULATORY APPROVALS

10.1 Obligation to Comply with Laws, Regulations and Ordinances and Regulatory Approvals

Contractor acknowledges and agrees that it has familiarized itself with the requirements of any and all applicable Laws, Regulations and Ordinances and the conditions of all Regulatory Approvals prior to entering into this Contract. Contractor shall comply with, and shall ensure that all Subcontractors comply with, all applicable Laws, Regulations and Ordinances and the conditions and requirements of all Regulatory Approvals, including survey work, wetland and other impact mitigation, water and air quality analyses and any applicable Section 7 consultation and commitments required by the Endangered Species Act of 1973, 16 U.S.C. Section 1531 et seq.

10.2 Obligation to Obtain Regulatory Approvals

10.2.1 Contractor has no reason to believe that any Regulatory Approval required to be obtained by Contractor will not be granted in due course and thereafter remain in effect so as to enable the Work to proceed in accordance with the Contract Documents. Prior to performing any construction, equipping or installation of the Project or any portion thereof, Contractor shall obtain all Regulatory Approvals required in connection therewith; provided, however, that Department shall not prohibit commencement of any such activity where Contractor has satisfied all other requirements and conditions set forth in this Contract, and either:

(a) Contractor lacks a Regulatory Approval (other than from Department and other than the lead agency under NEPA, if applicable) but instead is contesting diligently and in good faith the validity, applicability or terms of such Regulatory Approval through appropriate proceedings, has posted any bonds or other undertaking which may be lawfully required to commence and proceed with such activity without such Regulatory Approval and certifies in writing to Department that it will obtain and abide by such Regulatory Approval if and when it is upheld; or

(b) a Regulatory Approval not yet obtained is not necessary in order to commence such activity and can be expected to be issued in due course during construction.

10.2.2 In the event that any Regulatory Approvals required to be obtained by Contractor under Section 10.2.1 must formally be issued in the name of Department, Contractor shall undertake all efforts to obtain such approvals subject to Department's reasonable cooperation with Contractor, including execution and delivery of appropriate applications and other documentation in form approved by Department.

10.2.3 Prior to Substantial Completion, Contractor shall obtain all Regulatory Approvals required to open the Project for normal use and operation. Contractor shall obtain all such Regulatory Approvals in the name of Department and Association, provided that if doing so is impossible or impracticable, then Contractor shall obtain a transferable Regulatory Approval and transfer and assign the same in writing to Department and Association prior to the Transition Date. Contractor shall deliver to Department, promptly after Contractor's receipt, the original of each such Regulatory Approval.

10.3 Payment for Regulatory Approvals

Contractor shall pay all charges and fees and shall not be entitled to any time extension incident to obtaining any modifications to Regulatory Approvals and all new Regulatory Approvals and for any

changes in the Work arising therefrom, provided that in the event a modification to a Regulatory Approval or a new Regulatory Approval is necessitated by a Directed Change, a Force Majeure event or Differing Site Condition, Contractor shall receive compensation and/or a time extension for obtaining such modification or new Regulatory Approval and for any changes in the Work resulting therefrom pursuant to the Change Order covering the Directed Change, Force Majeure event or Differing Site Condition (but only to the extent eligible under Section 19.4.1), as appropriate.

10.4 Acknowledgment Regarding EIS

Contractor acknowledges and agrees that constraints established by the EIS were (and will be) based on certain assumptions regarding the alignment of the Project, and agrees that the Project can be designed and constructed within the constraints identified in the Contract Documents.

ARTICLE 11. WARRANTIES

11.1 Warranties

11.1.1 Contractor warrants to Department that (a) all design Work performed pursuant to the Contract Documents shall conform to all professional engineering principles generally accepted as standards of the industry in the State, (b) the Project shall be free of Defects, (c) the ETTM System and ETTM Facilities shall be fit for use for the intended function, (d) materials and equipment furnished under the Contract Documents shall be of good quality and new, and (e) the Work shall meet all of the requirements of the Contract Documents. The Warranties shall not include routine maintenance items such as periodic rework of bridge joints, restriping and other like work required as a result of normal wear and tear. In addition, subject to Section 11.3.3, the Warranties shall not apply to equipment purchased from vendors and installed in or serving the interior of toll booths and the administration building, including air conditioning units, heating units and appliances (the "Pass-Through Equipment").

11.1.2 The Warranties shall commence on the first to occur of the Opening Date or the Final Acceptance Date, or with respect to any overcrossings or undercrossings put into service prior to the Opening Date in accordance with Section 18.1, the date of acceptance of such portions. The Warranties shall remain in effect for a five-year period, provided that the Warranties with respect to the ETTM System shall remain in effect for a two-year period. If any of the Work fails to meet the standards set forth in Section 11.1.1 at any time within the applicable warranty period, then Contractor shall correct such Work to meet the standards of Section 11.1.1, and repair (to such standards) any damage to the Project or other property of Department caused by the failure of the Work to meet the standards set forth in Section 11.1.1, even if the performance of such corrective work or repairs extends beyond the stated warranty period.

11.1.3 Within seven Days of receipt by Contractor of notice specifying a failure of any of the Work to satisfy Contractor's Warranties, Department will consult with Contractor to determine when and how Contractor shall remedy such violation; provided, however, that in case of an emergency requiring immediate curative action, Contractor shall implement such action as it deems necessary and shall notify Department of the urgency of an expedited decision by the close of the following Business Day. Contractor and Department shall agree on such remedy as soon as reasonably practicable. If Contractor does not use diligent efforts to proceed promptly to effectuate such remedy within the agreed time, or should no such agreement be reached within such seven-day period (or immediately, in the case of emergency conditions), Department, after notice to Contractor, shall have the right to perform or have performed by third parties the necessary remedy, and the costs thereof shall be borne by Contractor.

11.1.4 Contractor shall be responsible for obtaining any required encroachment permit from Department in connection with any such corrective or repair Work. Contractor shall bear all costs of correcting any rejected or defective Work, including additional testing and inspections, and shall reimburse Department or pay Department's direct expenses of regulating traffic and protecting the public and third party expenses made necessary thereby within 30 Days after Contractor's receipt of invoices therefor.

11.2 Extension of Warranties

Contractor's Warranties shall apply to all Work re-done pursuant to the terms of this Contract. The Warranties shall last as to each re-done element of the Work until the later of (a) one year after

acceptance by Department of any re-done Work or (b) expiration of the applicable Warranty period as set forth in Section 11.1.2.

11.3 Subcontractor and Pass-Through Equipment Warranties

11.3.1 Without in any way derogating from Contractor's own representations and warranties (including the Warranties) and other obligations with respect to all of the Work, Contractor shall obtain from all Subcontractors and cause to be extended to Department appropriate representations, warranties (for periods at least co-extensive in duration with Contractor's Warranties for such Work), guarantees and obligations with respect to design, materials, workmanship, equipment, tools and supplies furnished by such Subcontractors. All representations, warranties, guarantees and obligations of Subcontractors (a) shall be written so as to survive all inspections, tests and approvals hereunder, and (b) shall run directly to and be jointly and severally enforceable by Contractor, Department and/or Association and their respective successors and assigns. Contractor hereby assigns to Department all of Contractor's rights and interest in all extended warranties for periods exceeding the applicable Warranty period which are received by Contractor from any of its Subcontractors.

11.3.2 Upon receipt from Department of notice of a failure of any of the Work to satisfy any Subcontractor warranty, representation, covenant, guarantee or obligation, Contractor shall be responsible for enforcing in the name of and on behalf of Department, if so directed, or performing any such representation, warranty, covenant, guarantee or obligation, in addition to Contractor's other obligations hereunder. Department's rights under this Section 11.3.2 shall commence at the time such representation, warranty, guarantee or obligation is furnished and shall continue until the expiration of Contractor's Warranty (including extensions for redone Work). Until such expiration, the cost of any equipment, material, labor (including re-engineering) or shipping shall be for the account of Contractor if such cost is covered by such a Warranty and Contractor shall be required to replace or repair defective or damaged equipment, material or workmanship furnished by Subcontractors.

11.3.3 Contractor shall require each vendor of Pass-Through Equipment (as defined in Section 11.1.1) to provide warranties for such equipment for the express benefit of Department that equal or exceed industry standards in the State (a "required warranty"), provided that if Contractor fails to obtain a required warranty or if a vendor of Pass-Through Equipment becomes bankrupt or insolvent during the term of its required warranty, such warranty shall be deemed to be given by Contractor. Upon receipt from Department of notice of a failure of any of the Pass-Through Equipment to satisfy any required warranty during the term of such required warranty, Contractor shall be responsible for enforcing such required warranty in the name of and on behalf of Department, if so directed by Department. Contractor's liability with respect to required warranties for the Pass-Through Equipment shall be limited to obtaining such required warranties and, except if a vendor fails to provide the required warranty or a vendor becomes bankrupt or insolvent during the term of its required warranty, assisting Department in the enforcement of same short of litigation with the respective vendor.

11.4 Assignment of Warranties

Contractor's Warranties (including warranties for re-done Work) and all Subcontractor and Pass-Through Equipment (as defined in Section 11.1.1) warranties shall be assignable by Department without approval by Contractor or any Subcontractor or vendor, which assignment shall be effective upon delivery of notice to Contractor of the assignment.

11.5 Damages for Breach of Warranty

Contractor's liability to Department for damages resulting from any breach of an express warranty (including warranties made by Subcontractors) shall be limited to all those costs reasonably incurred by Department in effecting the remedy described in Section 11.1.2 itself or through a third party, including the costs described in Section 11.1.4. This limitation of liability shall not apply to liabilities incurred by Contractor arising out of its obligation to indemnify, defend and hold each State Indemnitee and Association Indemnitee harmless from third party Claims under Section 21.1 or to the extent covered by insurance required hereunder.

11.6 Exclusive Remedy

This Article 11 and Section 14.4 set forth Department's exclusive remedies against Contractor, and Department hereby waives all other remedies, regarding defects or deficiencies in the Work, whether patent or latent or arising in contract, tort (including negligence) or pursuant to other legal theory, except (a) Contractor's obligation to indemnify, defend and hold each State Indemnitee and Association Indemnitee harmless from third party Claims under Section 21.1 and (b) defects and deficiencies in the Work resulting from the fraud or deceit of any Contractor Party (excluding Subcontractors). Contractor makes no other warranties, express or implied, relating to the quality of the Work.

11.7 Habitat and Landscaping Maintenance

Contractor shall maintain in a growing condition all newly established plantings, seedings and soddings furnished under the Contract Documents and shall protect new tree growth and other vegetative growth against injury, replacing all dead plants requiring replacement in accordance with the Standard Specifications throughout an establishment period that shall commence at initial planting and shall end one year after the planting date.

ARTICLE 12. RECORDS AND INTELLECTUAL PROPERTY

12.1 Maintenance of, Access to and Audit of Records

Contractor shall maintain a complete set of all books and records prepared or employed by Contractor in its management, scheduling, cost accounting and otherwise with respect to the Project. Contractor shall grant to Department and/or Trustee such audit rights and allow Department such access to and the right to copy such books and records as Department and/or Trustee may request in connection with Work to be performed on a reimbursable cost basis, issuance of Change Orders, the resolution of disputes and such other matters as Department and/or Trustee reasonably deem necessary for purposes of verifying compliance with this Contract and applicable law.

12.1.1 Where the payment method for any Work is on a unit-priced basis, such examination and audit rights shall include all books, records and other data of Contractor for the purpose of evaluating the accuracy of Contractor's designations of quantities.

12.1.2 Where the payment method for any Work is on a time and materials basis, such examination and audit rights shall include all books, records, documents and other evidence and accounting principles and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of such Work. If audit indicates Contractor has been over-credited under a previous progress report or progress payment, that over-credit will be credited against current progress reports or payments.

12.1.3 For cost and pricing data submitted in connection with pricing Change Orders, unless such pricing is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the public, or prices set by law or regulation, Department and its representatives have the right to examine all books, records, documents and other data of Contractor related to the negotiation of or performance of Work under such Change Orders for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted. The right of examination shall extend to all documents deemed necessary by such Persons to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

12.1.4 Nothing contained in this Contract shall in any way limit the constitutional and statutory powers, duties and rights of elected state officials, including the independent rights of the State Auditor of Public Accounts, in carrying out his or her legal authority.

12.1.5 No audit rights shall extend to the make-up of any lump sum amount or unit price once the parties have agreed upon such amount or price.

12.1.6 Contractor shall require each Subcontractor to comply with the requirements applicable to Contractor set forth in this Section 12.1.

12.2 Retention of Records

Contractor shall maintain all records and documents relating to this Contract (including copies of all original documents delivered to Department) for five years after the Final Acceptance Date or termination date, as applicable, and shall notify Department where such records and documents are kept. Notwithstanding the foregoing, all records which relate to Contractor Claims being processed or actions

brought under the dispute resolution provisions hereof shall be retained and made available until such actions and Contractor Claims have been finally resolved and Contractor shall maintain all documents relating to acquisition of the Project Rights of Way no less than three years after any negotiated conveyance or after issuance of a final judgment with respect to any property acquired by condemnation. Records to be retained include all books and other evidence bearing on Contractor's costs and expenses under the Contract Documents. Contractor shall make these records and documents available for audit and inspection to Department and Trustee, at Contractor's office, at all reasonable times, without charge, and shall allow such Persons to make copies of such documents (at no expense to Contractor). If approved by Department, photographs, microphotographs or other authentic reproductions may be maintained instead of original records and documents.

12.3 Public Records

Requirements relating to public records are set forth in Section 18.2 of the Comprehensive Agreement.

12.4 Reporting Requirements

12.4.1 Not later than 30 Days after the end of each calendar quarter, Contractor shall prepare and deliver to Department the following reports, in a form reasonably satisfactory to Department:

(a) a written narrative report on the progress of design, permitting, acquisition, Utility Relocations and construction of the Project and Project Right of Way since the immediately preceding report, or, if there was no preceding report, from the inception by Contractor of such Work, describing in reasonable detail all significant activities concerning design, Regulatory Approvals, new contracts and subcontracts with contractors, subcontractors, vendors and suppliers identifying the parties, scope and, for Work thereunder to be paid on a time and materials basis, amount, construction and construction progress and discovery and correction of defects. Such report shall include a discussion of the CPM/Payment Schedule and Contractor's compliance therewith, of any new or continuing delays, material matters which may affect the future performance of Contractor's obligations under the Contract Documents, and the causes thereof and a summary of all new changes to the Plans and Specifications. Such report also shall describe any damage or destruction and restoration work and revenue information (such as but not limited to insurance awards) relating to any such occurrence; and

(b) a written narrative report of any disputes with Contractor or claims, actions or assertions against Contractor, the Project or Project Right of Way by any Governmental Person, any general contractor, any architect or engineer, any subcontractors, vendors or suppliers or any other Person, or of Lien claims or stop notices filed or threatened to be filed by any Person. Such report shall include but not be limited to a description of the nature of the dispute, claim, action, assertion, Lien or notice, the amount in dispute or claimed, copies of any Lien notice, stop notice, complaint, demand or other pertinent documents which Department requires, availability of insurance and insurance defense, and actions taken and contemplated to defend against, settle or remove the dispute, claim, action, assertion, Lien or notice.

12.4.2 Contractor shall report to Department (a) not later than 24 hours after the occurrence thereof, any significant damage or destruction to the Project, and (b) at least 48 hours before commencement thereof, any planned work (other than emergency repairs) to repair or remedy such damage or destruction.

12.4.3 Contractor shall obtain Department's prior written approval of all proposed press releases and other statements concerning the Project before they are made available generally by Contractor to the public or media.

12.4.4 Contractor shall furnish or cause to be furnished to Department copies of all financial audit reports distributed by Contractor other than those limited to internal distribution within Contractor or its members.

12.4.5 Contractor shall furnish or cause to be furnished to Department such other documents, reports and information relating to the Project as Department may reasonably request from time to time.

12.5 Contractor Pricing Documents

Prior to execution of this Contract, Contractor has delivered to Department certain pricing documents. Contractor represents and warrants that the pricing documents (a) were personally examined prior to delivery by an authorized officer of Contractor, (b) clearly detail how the Contract Price has been determined and is adequate to enable a complete understanding and interpretation of how Contractor arrived at the Contract Price, including the unit prices for the Bridge Foundation Work, and (c) includes all assumptions, detailed quantity takeoffs, rates of production and progress calculations, cost estimates and quotes from Subcontractors and suppliers used by Contractor to arrive at the Contract Price.

12.6 Subcontractor Pricing Documents

Contractor shall require each Subcontractor whose Subcontract price equals or exceeds $5,000,000 to submit to Department a copy of all documentary information used in determining the Subcontract price immediately prior to executing the Subcontract or change orders or amendments thereto. Each such Subcontract shall include a representation and warranty from the Subcontractor stating that the submitted documentary information constitutes all the documentary information used in the determination of its price. Each Subcontract with a Subcontractor whose Subcontract price is less than $5,000,000 shall require the Subcontractor to preserve all documentary information used in determination of its price and to provide such documentation to Contractor and/or Department in connection with any claim exceeding $250,000 made by such Subcontractor.

12.7 Intellectual Property

(a) Contractor shall purchase, or obtain licenses as described in this Section for, all Intellectual Property necessary to manage, maintain and operate the ETTM Equipment, ETTM Facilities and other components and systems of the Project. In addition, Contractor shall obtain and deliver to Department all manuals, handbooks, maintenance libraries and other documentation, whether provided in printed form or electronically, related to operation, use or maintenance of Software Contractor incorporates into the Project.

(b) Contractor shall require each supplier or vendor of Software to or for use in the Project to warrant and represent in writing for the same duration as the Warranties with respect to the ETTM System the following for the express benefit of Department:

(i) that such Software is free from programming errors and from defects in workmanship and materials;

(ii) that such Software shall operate in conformity with the performance capabilities, specifications, functions and other descriptions and standards applicable thereto and shall conform to the standards generally observed in the industry for similar Software;

(iii) that such Software shall be compatible with the equipment and electronic hardware used for traffic management on State Highways and with the ETTM Equipment, as appropriate; and

(iv) that the Software is fit for its intended purpose.

If Contractor fails to obtain the warranties and representations required by this subsection (b), such warranties and representations shall be deemed to be given by Contractor.

(c) The following requirements shall apply to all Software licenses pertaining to the Project:

(i) For Custom Software:

(A) All subcontracts for Custom Software development shall provide that such Custom Software is being developed for and shall be owned by Department and shall be considered a trade secret of Department, and that the Custom Software supplier shall have no rights in and to the Custom Software and shall not use, duplicate, modify, publish or distribute any such Custom Software except for and as permitted by Department. All copyright, patent and trade secret rights in and to such Custom Software shall be transferred to Department and the Custom Software supplier shall provide Department with all necessary assignments and registrations to vest in Department all right, title, and interest in and to such Custom Software, its copyrights, patents and trade secrets, without additional payment and with full right to license, transfer or sell the Custom Software, in whole or in part, to others in any manner and for any purpose whatsoever.

(B) Contractor shall obtain the Source Code and Source Code Documentation for the Custom Software and shall provide the same to Department.

(ii) For Proprietary Software:

(A) Contractor shall obtain for and in the name of Department nonexclusive, transferable to any operator of the Project, irrevocable, fully paid-up licenses to all Proprietary Software supplied to or for use in the Project.

(B) Contractor shall cause the Source Code and Source Code Documentation for Proprietary Software to be provided to a trustee under a trust agreement among Department, the Proprietary Software supplier and the trustee; provided that Contractor shall be excused from this obligation if (I) the supplier, as a general corporate policy, prohibits or refuses to escrow or place in trust its Source Code and Source Code Documentation and (II) Contractor is unable, despite diligent efforts, to purchase the necessary Proprietary Software from an alternate supplier which is willing to escrow or place in trust its Source Code and Source Code Documentation. The trust agreement shall include the basic terms set forth in Section 12.9.

(d) The following provisions shall be included in all subcontracts between Contractor and its equipment and Software suppliers concerning infringement of Intellectual Property rights:

(i) Suppliers shall represent and warrant for the express benefit of all Department Indemnitees and Association Indemnitees that the materials, equipment, devices and Software to be used on or incorporated in the Project shall be free of any rightful Claim of any third party for infringement of any patent, copyright, trademark, trade secret, or other intellectual property or proprietary right ("Infringement Claims").

(ii) The supplier shall, upon written demand of Department or Association, defend at its expense and with counsel acceptable to Department, any Infringement Claims against State Indemnitees or Association Indemnitees, and the supplier shall pay all damages and costs awarded therein against the State Indemnitees and Association Indemnitees or any of them. The supplier may settle any such Infringement Claim, subject to the approval of Department, provided such settlement shall not result in the loss of Department's or Association's right to use the Software as contemplated unless such supplier shall indemnify and hold Department and Association harmless from and against all loss, cost and expense incurred in replacing such infringing Software.

(iii) The supplier shall report to the State Indemnitees and Association Indemnitees promptly and in reasonable written detail each Infringement Claim of which the supplier has knowledge, except those involving suppliers of retail "shrink wrap" Software.

(iv) In the event of any Infringement Claim against any State Indemnitee or Association Indemnitee, the supplier shall cooperate fully with the State Indemnitees and Association Indemnitees in their response to and defense against such Infringement Claim and shall furnish at its sole cost and expense all evidence and information in the possession of the supplier pertaining to such Infringement Claim.

(e) With respect to items purchased directly or indirectly from third party equipment and software vendors, Contractor shall have no liability with respect to infringement of Intellectual Property rights beyond obtaining the warranties and indemnities described above, for the joint express benefit of Contractor and Department, and assisting Department in the enforcement of same, provided that if Contractor fails to obtain any such third party warranty or indemnity from such vendors, such warranty or indemnity shall be deemed to be given by Contractor.

12.8 Title to Work Product

Provided Department has made payment to Contractor therefor to the extent required by this Contract, all Work Product shall become the property of Department upon Contractor's preparation or receipt thereof and Contractor shall promptly deliver possession thereof to Department; provided that rights to and ownership of Intellectual Property are governed by Section 12.9.

12.9 Intellectual Property Escrow

Department and Contractor acknowledge that certain technical data, including Source Code and Source Code Documentation, constitute information concerning the design of the ETTM System or other Project equipment or components which, if subject to public disclosure, would deprive Proprietary Software suppliers of commercial value, but to which Department must be ensured access in the event the Proprietary Software supplier is the subject of a voluntary or involuntary petition in bankruptcy. Accordingly, except where the Proprietary Software supplier, as a general corporate policy, prohibits or refuses to escrow or place in trust its Source Code and Source Code Documentation and Contractor is unable, despite diligent efforts, to use an alternate supplier willing to escrow or place in trust its Source Code and Source Code Documentation, Contractor shall cause each Proprietary Software supplier to

provide all Escrow Material to a trustee (other than Trustee) under a trust agreement among Department, the Proprietary Software supplier and the trustee, the basic terms of which shall be as follows:

(a) the trustee shall be a trust company qualified to do business in the State or a bank authorized to engage in a trust business in the State, which bank or trust company shall be mutually acceptable to Department and the Proprietary Software supplier;

(b) the Escrow Material shall be placed with such trustee for safekeeping in a county in the State mutually agreeable to the parties;

(c) upon each major Software release, revision or upgrade after the Agreement Date, the Proprietary Software supplier shall deposit with such trustee, at the Proprietary Software supplier's sole cost and expense, the Escrow Material and within seven Days after any such deposit, the trustee shall given written notice of receipt to Department;

(d) upon reasonable written notice to each party to an escrow, Department or its contractor may conduct, at Department's sole cost and expense, reasonable tests of the Escrow Material, under the Proprietary Software supplier's supervision, to confirm the condition of the Escrow Material;

(e) title to any designs, copyrights, patents, trade secrets or other Intellectual Property divulged in the Proprietary Software shall remain with the supplier thereof, subject to the rights and licenses granted to Department in accordance with Section 12.7;

(f) in the event that (i) the Proprietary Software supplier enters into a voluntary or involuntary receivership arrangement or other bankruptcy or insolvency proceedings, ceases to engage in business or is dissolved or (ii) the Proprietary Software supplier fails to provide updates and maintenance releases for the Software, such trustee, upon receipt of written notice from Department, shall turn over to Department the Escrow Material or such portion thereof as to which the release triggering event has occurred at the end of the third Day following receipt of notice;

(g) from and after the time the Escrow Material is turned over to Department by the trustee, Department shall have the right and license to use the Escrow Material for the Project as permitted herein; provided, however, that the Proprietary Software supplier shall retain such rights in the Software as they may have had immediately prior to delivery of the Escrow Material to Department; and

(h) prior to the occurrence of one of the release triggering events identified in subsection (f) above, Department shall have no right of access to the Escrow Material.

12.10 Equipment Warranties

Contractor shall procure ETTM Equipment and equipment for traffic management functions and systems under vendor contracts which do not impair, qualify, limit or disclaim in any manner the implied warranties of merchantability and fitness for the particular purpose intended. Contractor shall make such implied warranties available for the benefit of Department. Contractor shall not itself be liable to Department for any such implied warranties (provided that this limitation shall in no way affect the scope of any of Contractor's warranties hereunder).

ARTICLE 13. CRITICAL PATH METHOD SCHEDULE

13.1 CPM/Payment Schedule

Contractor shall prepare and maintain a CPM/Payment Schedule using the critical path method of scheduling on a system reasonably acceptable to Department. This schedule shall be used to manage the design and construction of the Project and as the basis for determining the amount of monthly progress payments to be made to Contractor and shall be in sufficient detail to determine progress, to monitor construction activity and to identify and avoid delays.

13.2 Allocation of Contract Price

Contractor shall allocate the total Contract Price among the activities scheduled on the CPM/Payment Schedule so that each activity has a price which accurately shows the amount payable to Contractor for such activity. The price for each activity shall account for any limitations relating to payment for specific activities contained herein. For Work which is the subject of a Change Order, the schedule shall be updated to reflect the approved Change Order. The sum of the prices of all activities in the CPM/Payment Schedule shall equal the total Contract Price. Once the initial CPM/Payment Schedule has been approved, no changes to any allocated amount may be made without Department approval.

13.3 Initial CPM/Payment Schedule; Monthly Updates

Contractor shall provide Department with a copy of an initial CPM/Payment Schedule on or before the Financial Closing Date. Contractor shall thereafter update the schedule on a monthly basis. The term "CPM/Payment Schedule" as used herein shall mean the most recent schedule provided hereunder that has been approved by Department.

13.4 CPM/Payment Schedule Requirements

Each CPM/Payment Schedule shall be in a paper and/or electronic medium accompanied by a management level summary, as may be requested by Department. Periodic construction meetings shall be held by Contractor with its consultants and subcontractors to coordinate the Work, update the CPM/Payment Schedule, provide information and resolve potential conflicts. The CPM/Payment Schedule shall, among other things, provide that Substantial Completion shall be achieved by the Guaranteed Completion Date, include a designation of any Construction Segments and be subject to Department's reasonable approval. In the event of any delay in excess of one month, Contractor shall prepare and provide to Department a recovery plan and revised schedule.

ARTICLE 14. COMPENSATION

14.1 Contract Price

14.1.1 Contract Amount

As full compensation for the Work and all other obligations to be performed by Contractor under the Contract Documents, and subject to the limitations contained herein, Contractor shall be paid the sum of $302,108,661 (such amount, as it may be adjusted from time to time as provided herein, is referred to herein as the "Contract Price"). The Contract Price is made up of the following items:

$251,809,520	Fixed Price Amount
36,299,141	Bridge Foundation Account
14,000,000	ROW/Utility Allowance
$302,108,661	Contract Price

The Contract Price shall be paid in accordance with Section 14.2. The Contract Price shall be increased only in accordance with Article 19 and decreased only in accordance with Sections 14.1.2 and 14.1.3 and Article 19. The Project budget includes, separate and apart from the Contract Price, an Oversight Budget for the benefit of Department as described in Section 5.2.3 and a Contingency for the benefit of Contractor and Department to cover unanticipated costs as described in Section 14.3.

14.1.2 ROW/Utility Allowance

14.1.2.1 The Contract Price includes the ROW/Utility Allowance in the amount of $14,000,000 for (a) Project Right of Way Work under Article 6 and (b) Utility Relocations Work under Article 7.

14.1.2.2 Contractor's costs for Utility Relocations Work will be reimbursed from the ROW/Utility Allowance, until the ROW/Utility Allowance has been exhausted. Such costs shall substantially conform with the reimbursement provision of 23 C.F.R. 645 and shall not include any upgrade, Betterment, or other improvement of the utility facilities, nor shall they include overhead allocation, profit, or other mark-up by Contractor (except for certain overhead and direct costs permitted under Section 14.3.4). Department shall also be entitled to reimbursement from the ROW/Utility Allowance for its costs in connection with the Utility Relocations Work.

14.1.2.3 Contractor's costs for Project Right of Way acquisition Work will be reimbursed from the ROW/Utility Allowance, until the ROW/Utility Allowance has been exhausted. Reimbursable costs shall be limited to: (i) direct payments for ownership or other property rights; (ii) direct payments for eligible relocation expenses as provided for under the Uniform Act; (iii) the expense of appraisers, land agents, title searches, and right of way agents; (iv) attorneys' fees, expert witness fees, filing fees, and deposition costs and expenses arising from condemnation proceedings; and (v) expenses incurred to cure or avoid damages proximately related to the acquisition of the rights of way. Contractor shall not be entitled to payment for overhead allocations, profit, or other mark-up by Contractor on the cost of such Work. Department shall also be entitled to reimbursement from the ROW/Utility Allowance for its costs in connection with the Project Right of Way acquisition Work.

14.1.2.4 If a positive balance remains in the ROW/Utility Allowance upon achievement of Final Acceptance, resolution of all Contractor Claims, all claims, Liens and stop notices of Subcontractors and laborers and all claims by third parties, including utility owners, reconciliation of all outstanding eminent domain cases and final determination of the amount owing to the utility owners, the balance will be deducted from the Contract Price and paid to a special account with Trustee to be used in any manner related to the Project that Department directs.

14.1.2.5 If the ROW/Utility Allowance is depleted, any amounts otherwise payable from the ROW/Utility Allowance will automatically be paid from the Contingency, to the extent available.

14.1.3 Bridge Foundation Account

14.1.3.1 The Contract Price includes the Bridge Foundation Account for the uses set forth in this Section 14.1.3 in the amount of $36,299,141.

14.1.3.2 Contractor's costs for the Bridge Foundation Work will be reimbursed from the Bridge Foundation Account until the Bridge Foundation Account has been exhausted. Payment for the Bridge Foundation Work will be made by applying the unit prices set forth in Appendix 2 hereto unless the reimbursement is pursuant to a Change Order, in which case payments will be made in accordance with Article 19.

14.1.3.2.1 The unit prices shall be deemed to include all activities and items necessary to perform the Bridge Foundation Work, regardless of whether or not any such activity or item is specifically assigned a unit price. Measurement of quantities will be in accordance with Section 109.01 of the Standard Specifications. Unit prices shall not be subject to change solely by reason of any change in the estimated quantities.

14.1.3.2.2 Except to the extent provided otherwise in Article 19, Contractor shall not be entitled to reimbursement or a time extension for any Bridge Foundation Work in excess of the Bridge Foundation Account.

14.1.3.3 The Bridge Foundation Account amounts in excess of the costs of the Bridge Foundation Work shall also be available for the payment of Reimbursable Site Work as described in Section 14.6.

14.1.3.4 Subject to possible repayment in accordance with Section 14.6.3, if a positive balance remains in the Bridge Foundation Account upon completion of the Bridge Foundation Work, one-half of the balance will be advanced to Contractor (the "Bridge Foundation Advance") in accordance with the procedure set forth in Section 14.2. If a positive balance remains in the Bridge Foundation Account and the Bridge Foundation Advance upon achievement of Final Acceptance, resolution of all Contractor Claims, all claims, Liens and stop notices of Subcontractors and laborers and all claims by third parties, including utility owners, the balance of the Bridge Foundation Account will be deducted from the Contract Price and paid to a special account with Trustee to be used in any manner related to the Project that Department directs and Contractor shall be entitled to retain the remaining balance of the Bridge Foundation Advance.

14.1.4 Items Included in Contract Price

Contractor acknowledges and agrees that, subject only to Contractor's rights under Article 19, the Contract Price includes (a) all designs, equipment, materials, labor, insurance and bond premiums, home office, jobsite and all other overhead, profit and services relating to Contractor's performance of its obligations under the Contract Documents (including all Work, equipment, materials, labor and services provided by Subcontractors and all Intellectual Property rights necessary to perform the Work); (b) performance of each and every portion of the Work; (c) the cost of obtaining all Regulatory Approvals (except as provided otherwise in Section 10.3); and (d) payment of any duties, permit and other fees and/or royalties imposed with respect to the Work and any equipment, materials, labor or services included therein. Contractor further acknowledges and agrees that all such costs are payable out of the Fixed Price Amount portion of the Contract Price unless expressly provided otherwise.

14.2 Payments

Payment to Contractor of the Contract Price shall be made as follows:

14.2.1 Not Used

14.2.2 Delivery of Draw Request and Certificate

On or about the 15th Day of each month, Contractor shall submit to Department five copies of a Draw Request and Certificate (the "Request") in the form attached hereto as Appendix 3 (and as Exhibit 1 to the Indenture), with no additions or deletions other than those approved by Department. Each Request shall be executed by a designated representative of Contractor appointed by Contractor to have such authority in accordance with Section 24.1. No Request shall be considered complete unless it (a) describes the status of completion as it relates to the CPM/Payment Schedule, (b) sets forth the related payments which are then due in accordance with the CPM/Payment Schedule, as of the end of the 10th day of the month, (c) includes the required attachments thereto in form approved by Department, (d) includes a written certificate from Contractor and each Subcontractor to be paid pursuant to the subject Request that all prior invoices have been paid in full except for Retainage and amounts in dispute, (e) in the case of amounts to be paid on a unit price basis, includes invoices, receipts or other evidence establishing the number of units delivered and (f) in the case of amounts invoiced on a time and materials basis, includes all supporting documentation described in Section 19.7. Within ten Days after Department's receipt of the Request, Department will review the Request and all attachments thereto for conformity with all requirements of the Contract Documents, and shall notify Contractor of the amount approved for payment and the reason for disapproval of any remaining invoiced amounts or of any other information set forth in the Request. Contractor may include such disapproved amounts in the next month's Request after correction of the deficiencies noted by Department (all such disapproved amounts shall be deemed in dispute unless otherwise agreed). Subject to Department's right to suspend payment under Section 25.2, Department shall forward approved Requests and the approved amounts to Trustee for payment in accordance with the Indenture.

14.2.3 Not Used

14.2.4 Payment

Contractor acknowledges and agrees that it shall have no right to collect payment directly from Department except for up to $1.5 million as set forth in Section 3.1 and Discretionary Directed Changes. All payments will be made by Trustee and will be subject to the conditions to payment specified in the

Indenture. In no event shall Contractor be entitled to (a) payment for any activity eligible for payment from the Fixed Price Amount portion of the Contract Price in excess of the demonstrated percentage of completion of such activity, (b) payment for the Bridge Foundation Work in excess of the Bridge Foundation Account (except per Change Order) or (c) payment for Project Right of Way Work or Utility Relocations Work in excess of the amounts allowed under Section 14.1.2.

14.2.5 Continued Performance During Disputes

Subject to Contractor's right to suspend performing Work to the extent permitted under Section 25.4, failure of Department to authorize payment of or Trustee to pay any disputed amounts shall not postpone, alleviate, diminish or modify in any respect Contractor's obligation to perform under the Contract Documents, including Contractor's obligation to achieve Final Acceptance and perform all Work in accordance with the Contract Documents, and Contractor shall not cease or slow down its performance under the Contract Documents on account of any such amount. Any dispute between Contractor and Department regarding such payment shall be resolved pursuant to Article 27.

14.2.6 Retainage

14.2.6.1 Except as provided below, Department shall withhold or direct Trustee to withhold funds (the "Retainage") from each payment to be made to Contractor as described in Section 14.2.4. The Retainage shall initially be an amount equal to 5% of the invoiced amount for all Work except Project Right of Way Work and Utility Relocations Work. After 50% of the total Contract value has been completed and 5% has been retained on this amount (other than Project Right of Way Work and Utility Relocations Work), Department shall cease withholding Retainage from future payments owing to Contractor hereunder, provided that (a) Retainage previously withheld will not be released on future payments and (b) if Contractor's progress is more than 10% behind the CPM/Payment Schedule, the progress will be considered unsatisfactory and Department shall resume withholding 5% of each invoiced amount from future payments for each month Contractor is behind the CPM/Payment Schedule by more than 10%. The term "total Contract value" shall mean the original Contract Price except when the Contract Price is increased or decreased by more than 20%, in which case the term "total Contract value" shall mean the adjusted Contract Price.

14.2.6.2 The Retainage shall be held by Trustee until all events described in Section 14.2.6.3 have occurred, but at least until 30 Days after the Final Acceptance Date. At such time Contractor's requisition to Trustee under Section 14.2.2 may include draw of all Retainage (including earnings thereon) other than amounts applied to the payment of any Liquidated Damages and other amounts owing by Contractor or which Department deems advisable, in its reasonable discretion, to retain to cover any existing or threatened claims, Liens and stop notices relating to the Project, reconciliation of all eminent domain cases, any amounts due Department under Section 11.1.4, or the cost of any uncompleted Work. Final payment of such Retainage (including earnings thereon) not applied to Liquidated Damages, or to any amounts due Department under Section 11.1.4 shall be made upon (a) Contractor's showing, to Department's reasonable satisfaction, that all such matters have been resolved, including delivery to Department of a certification that there are no outstanding existing or threatened claims, Liens or stop notices of any Subcontractor, Supplier or laborer or claims by third parties, including utility owners, with respect to the Work and all eminent domain cases have been reconciled or (b) Contractor's showing, to Department's satisfaction in Department's sole discretion, that Department is adequately protected from any such unresolved matters.

14.2.6.3 No portion of the Retainage shall be released unless and until all of the following conditions have been met: (a) Liquidated Damages shall not then be payable to Trustee or to

Department; (b) Contractor shall have established to Department's reasonable satisfaction that Liquidated Damages are not anticipated to be payable to Trustee or to Department; (c) Contractor shall have applied in writing for such release; and (d) such release shall have been approved in writing by Department and the Surety.

14.2.6.4 The Retainage will be held in the Contractor Retainage Account and be invested by Trustee as provided in Sections 503.4 and 603 of the Master Indenture.

14.2.7 Not Used

14.2.8 Unincorporated Materials

Department will approve payment for material not yet incorporated in the Work only under the following circumstances:

14.2.8.1 Department will give consideration to requests for payment for materials and equipment stored off-Site on a case-by-case basis, subject to the following conditions precedent:

(a) Contractor shall provide Department with at least 40 Days prior notice of Contractor's plan to request payment for off-Site stored materials and equipment. Such request shall include a certified description of the off-Site location, a listing of all materials and equipment covered by the request, the individual value of the materials and equipment, the status of the fabrications of the material and/or equipment and the required dates of delivery at the Site. The statement shall be submitted on forms furnished by Department and shall be accompanied by invoices or other documents that will verify the material's cost. Following the initial submission, Contractor shall submit to Department a monthly certified update of the itemized inventory statement. The updated inventory statement shall show additional materials received and stored with invoices or other documents and shall list materials removed from storage since the last certified inventory statement, with appropriate cost data reflecting the change in the inventory. If Contractor fails to submit the monthly certified update within the specified time frame, Department will deduct the full amount of the previous statement from the invoice. At the conclusion of the Project, the cost of material remaining in storage for which payment allowance has been made will be deducted from the progress estimate.

(b) Evidence of insurance coverage of the stored material and equipment and related transit, including a loss-payable clause endorsement to Contractor's insurance policy providing payment to Department in the event of loss of the specified stored materials and equipment.

(c) A written statement from the Surety consenting to payment for materials and equipment stored off-Site.

(d) Such other documentation satisfactory to Department to establish Department's title to such material and equipment or otherwise protect Department's interest.

14.2.8.2 Department will review the documentation for completeness and accuracy. If the documentation presented does not satisfy the aforementioned conditions precedent, or if for any other reason Department is not satisfied, in its sole discretion, that Department's interest is fully protected, the request for payment for stored materials shall be denied.

14.2.8.3 Department specifically reserves the right to discontinue payment for material or equipment stored off-Site at any time for any reason during the course of the Work.

14.2.8.4 Contractor shall bear all costs of Department associated with inspection of off-Site materials stored outside of Henrico or Chesterfield County or the City of Richmond.

14.2.8.5 Following payment therefor, all such materials so accepted shall become the property of Department. Contractor at its own expense shall promptly execute, acknowledge and deliver to Department proper bills of sale or other instruments in writing in a form acceptable to Department conveying and assuring to Department title to such material included in any invoice, free and clear of all Liens. Contractor at its own expense shall conspicuously mark or paint such material as the property of Department, shall not permit such materials to become commingled with non-Department-owned property and shall take such other steps, if any, as Department may require or regard as necessary to vest title to such material in Department free and clear of Liens.

14.2.8.6 Payment for material furnished and delivered as indicated in this Section 14.2.8 will not exceed the amount paid by Contractor as evidenced by a bill of sale supported by paid invoice.

14.2.8.7 Payment for material furnished and delivered as indicated in this Section 14.2.8 shall be in accordance with the following terms and conditions:

14.2.8.7.1 Structural Units

An allowance of 100% of the cost to Contractor for structural steel materials for fabrication not to exceed 60% of the Contract Price may be made when such material is delivered to the fabricator and has been adequately identified for exclusive use on the Project. An allowance of 100% of the cost to Contractor for superstructure units, not to exceed 90% of the Contract Price, may be made when they have been fabricated. Prior to the granting of such allowances, the structural steel materials and fabricated units shall have been tested or certified and found acceptable to the QA Manager and shall have been stored in accordance with the requirements specified herein. Allowances will be based on invoices, bills, or the estimated value as approved by Department and will be subject to the Retainage requirements of Section 14.2.6.

14.2.8.7.2 Other Materials

For reinforcing steel, aggregate, pipe, guardrail, signs and sign assemblies, and other nonperishable material, an allowance of 100% of the cost to Contractor for materials, not to exceed 90% of the Contract Price, may be made when such material is delivered and stockpiled or stored in accordance with the requirements specified herein. However, no allowance will be made for cement, seed, plants, fertilizer, and other perishable material. Prior to the granting of such allowances, the material shall have been tested and found acceptable to the QA Manager. Allowances will be based on invoices, bills, or the estimated value of the material as approved by Department and will be subject to the Retainage provisions of Section 14.2.6.

14.2.8.7.3 Excluded Items

No allowance will be made for fuels, form lumber, falsework, temporary structures, or other work that will not become an integral part of the finished construction.

14.2.8.7.4 Storage

Material for which payment allowance is requested shall be stored in an approved manner in areas where damage is not likely to occur. If any of the stored materials are lost or become damaged, Contractor shall repair or replace them. Material included in an invoice but which is subsequently lost, as determined by Contractor, or which is damaged or unsatisfactory, as determined by Department, shall be deducted from succeeding invoices.

When it is determined to be impractical to store materials within the limits of the Project, Contractor may obtain approval for storage on private property or, for structural units, on the manufacturer's or fabricator's yard. Requests for payment allowance for such material shall be accompanied by a release from the owner or tenant of such property or yard agreeing to permit the removal of the materials from the property without cost to the State.

14.2.9 Equipment

Department shall not pay for direct costs of equipment used in constructing the Project. Payment for such equipment, whether new, used or rented, shall be allocated to and paid for as part of the activities with which the equipment is associated, in a manner which is consistent with the requirement of Section 19.5.2.1(c).

14.2.10 Payment for Work Scheduled to be Performed After Final Acceptance

Payment for habitat and landscape establishment and other Work scheduled to be performed after the Final Acceptance Date shall be made based on progress and shall not be subject to Retainage.

14.3 Contingency

14.3.1 The Project budget includes a Contingency of $15,000,000. Such amount is available for payment of certain expenses incurred by Department and Contractor under Sections 2.3, 5.2.3, 14.1.2.5, 14.3.4, 14.6, 19.3.3.1, 19.4.1.2(c) and 19.4.1.2(d).

14.3.2 If the Contingency does not contain sufficient funds to pay all eligible expenses, funds will automatically be transferred, to the extent needed and available, from the Fixed Price Amount portion of the budget into the Contingency portion of the budget. If the Contingency does not contain sufficient funds after such automatic transfers, each party may suspend those portions of its obligations under this Contract payable from the Contingency as provided in Section 25.4.2.

14.3.3 If at any time it becomes apparent to Contractor that the Contingency does not contain sufficient funds to pay all eligible expenses, Contractor shall immediately notify Association and Department thereof. If Association is unable to obtain additional funds through issuance of Completion Bonds in accordance with the Indenture, Department may, but shall have no obligation to (notwithstanding any approvals of items eligible for reimbursement), deposit its own funds into the Construction Fund in order to increase, as necessary, the Contingency.

14.3.4 If upon achievement of Final Acceptance, resolution of all Contractor Claims, all claims, Liens and stop notices of Subcontractors and laborers and all claims by third parties, including utility owners, reconciliation of all outstanding eminent domain cases and final determination of the amount owing to the utility owners, funds remain available in the Contingency, then such funds shall be paid in the following priority:

(a) first, to reimburse Contractor for its overhead and direct costs resulting from any unreasonable delay by a utility owner in connection with a Utility Relocation;

(b) second, to reimburse Contractor for its costs related to strikes which are not particular to a Contractor Party or the Project; and

(c) third, to the Department Capital Cost Savings Account to be used in any manner related to the Project that Department directs.

14.3.5 In the event of any dispute involving a Claim against the Contingency in accordance with Article 27, 100% of the amount of such Claim shall be reserved from the Contingency until final resolution thereof.

14.4 Offset; Reduction; Waiver

14.4.1 Department shall have the right to deduct any amount owed by Contractor to Department, Trustee or Association under the express terms of the Contract Documents, including Liquidated Damages and any amounts owing under Sections 11.1.3, 14.2.8.7.4 and 14.6.3 and Article 25, from any amounts owed by Department to Contractor including any progress payments payable under Section 14.2, any payment of one-half of the balance of the Bridge Foundation Account under Section 14.1.3.4, Retainage (including earnings thereon) which may be payable by Department to Contractor pursuant to Section 14.2.6 and any incentive payment payable to Contractor under Section 14.5.

14.4.2 The failure by Department or Trustee to deduct any sums owing by Contractor to Department, Association or Trustee from any amount owing by Department to Contractor shall not constitute a waiver of the right to recover such sums or to deduct such funds from future amounts owing by Department to Contractor. Permitting or requiring Contractor to continue and finish the Work or any part thereof after the Guaranteed Completion Date shall not act as a waiver of Department's or Association's right to receive Liquidated Damages hereunder or any rights or remedies otherwise available to Department.

14.5 Incentive Payment

14.5.1 If Contractor achieves Substantial Completion prior to 42 months after the Financial Closing Date, as such date may be extended under Section 19.3.4 (the "Scheduled Completion Date"), then subject to any restrictions contained in the Indenture, Contractor shall be entitled to receive 70% of the excess, if any, of Toll Revenues earned over Current Expenses incurred during a period which (a) is equal in length to the period between the date of Substantial Completion and the Scheduled Completion Date and (b) begins on the date tolling of traffic on the Project commences.

14.5.2 Within 60 Days after the end of each month during which Department collects Toll Revenues to which Section 14.5.1 is applicable, Department shall deliver to Association an accounting of such Toll Revenues and its Current Expenses, and Association shall deliver to Department, Trustee and Contractor an accounting of such Toll Revenues and the Current Expenses together with a request to Trustee to pay to Contractor from the Revenue Fund the amount, if any, owing according to such accounting, subject, however, to Department's right to offset as set forth in Section 14.4.

14.6 Reimbursable Site Work

Contractor shall be entitled to reimbursement for Reimbursable Site Work as follows:

14.6.1 Before Completion of the Bridge Foundation Work

Before completion of the Bridge Foundation Work, Contractor shall be entitled to reimbursement for 70% of any Reimbursable Site Work from the Contingency, to the extent available, and shall be entitled to reimbursement for the remaining 30% after the Bridge Foundation Work is complete in accordance with Section 14.6.2.

14.6.2 Upon Completion of the Bridge Foundation Work

Upon completion of the Bridge Foundation Work, Contractor shall be entitled to any deferred reimbursement under Section 14.6.1, first from the Bridge Foundation Account, to the extent available, and second from the Contingency, to the extent available. To the extent available, the Bridge Foundation Account will also replenish the Contingency for any amounts paid from the Contingency for Reimbursable Site Work under Section 14.6.1.

14.6.3 After Completion of the Bridge Foundation Work

After completion of the Bridge Foundation Work, Contractor shall be entitled to reimbursement for 100% of any subsequent Reimbursable Site Work as follows:

(a) first one-half of such amount shall be payable from the Bridge Foundation Account, to the extent available, and one-half of such amount shall be charged against any Bridge Foundation Advance (as defined in Section 14.1.3.4), to the extent available (and will be subject to offset against other amounts owing to Contractor under Section 14.4); and

(b) second such amount will be payable from the Contingency, to the extent available.

ARTICLE 15. FORCE MAJEURE

Funds in the Contingency shall be available to compensate Contractor for its additional costs directly attributable to Force Majeure events to the extent provided in Article 19.

ARTICLE 16. QUALITY ASSURANCE AND QUALITY CONTROL

Contractor shall have full responsibility for quality assurance and quality control for the Project, including provision of and compliance with a Quality Assurance and Control Inspection Program meeting all requirements contained in Appendix C attached to the Scope of Work.

ARTICLE 17. TIME FOR COMPLETION; SUBSTANTIAL COMPLETION

17.1 Time of Essence

Time is of the essence of this Contract.

17.2 Guaranteed Completion

17.2.1 Deadlines for Substantial Completion and Final Acceptance

Contractor shall achieve Substantial Completion on or before the date which is 45 months after the Financial Closing Date (which date for Substantial Completion, as it may be extended by Change Order, is referred to herein as the "Guaranteed Completion Date"). Contractor shall achieve Final Acceptance within 90 Days after Substantial Completion, provided that the required date for Final Acceptance shall be extended by one day for each day prior to the Guaranteed Completion Date that Contractor achieves Substantial Completion, up to a maximum of 30 Days (provided that in no event will the required date for Final Acceptance exceed 120 Days after Substantial Completion). Failure to achieve Substantial Completion by the Guaranteed Completion Date or Final Acceptance by the required date for Final Acceptance will result in the application of Liquidated Damages in accordance with Section 25.6.

17.2.2 No Time Extensions

Except as otherwise specifically provided in Article 19, Department shall have no obligation to extend the Guaranteed Completion Date or the Scheduled Completion Date and Contractor shall not be relieved of its obligation to achieve Substantial Completion by the Guaranteed Completion Date and Final Acceptance by the required date for Final Acceptance for any reason.

17.3 Substantial Completion

17.3.1 Contractor shall provide a written notice of anticipated Substantial Completion to Department when all of the following conditions to Substantial Completion have occurred:

(a) Contractor has completed the Project (except for Punch List items, other items included in the requirements for Final Acceptance and final cleanup);

(b) all construction associated with the Project has been performed in accordance with the requirements of the Contract Documents;

(c) the administration building has been certified for occupancy by the State Architect;

(d) the ETTM Facilities have been completed and are fully furnished and in move-in condition;

(e) the ETTM System (i) has been fully installed, including all spare parts, components and equipment and (ii) has passed the field check-out tests and performance tests described in Appendix E attached to the Scope of Work;

(f) the ETTM System and the Project are ready for revenue operation and the personnel who will operate the ETTM System have been properly trained and stand ready to commence operations;

(g) the Project may be operated without damage to the Project or any other property on or off the Site, and without injury to any Person;

(h) all trust arrangements for Escrow Materials have been established in accordance with Section 12.9; and

(i) Contractor shall have obtained all Regulatory Approvals required to open the Project for normal use and operation in accordance with Section 10.2.3.

17.3.2 As promptly as is practicable after receipt of the notice of anticipated Substantial Completion pursuant to Section 17.3.1, Department shall advise Contractor in writing of any of the following of which Department then has knowledge: (a) Defects in the Project, and/or (b) deficiencies in the Project relating to any of the items described in Section 17.3.1(a) through (i), and/or (c) deviations of any installed equipment, materials and workmanship from the requirements of the Contract Documents. Contractor shall, at its own cost and expense, correct such Defects, deficiencies and deviations. "Substantial Completion" will be deemed to have occurred once such corrections have been made and either (i) Department's Chief Engineer has issued a "Certification of Substantial Completion" to Contractor or (ii) each of the following has occurred: (A) Department's Chief Engineer receives a first notice from Contractor certifying that all conditions to Substantial Completion have occurred, stating that Substantial Completion may be deemed to occur if Department takes no further action and referencing this Section 17.3.2; (B) Department's Chief Engineer receives a second notice from Contractor on or after 21 Days after Department's Chief Engineer's receipt of Contractor's first notice of Substantial Completion stating that Substantial Completion will be deemed to occur after 9 Days from the date of the second notice if Department takes no further action and referencing this Section 17.3.2; and (C) Department has not given notice of any Defects, deficiencies or deviations within such period.

ARTICLE 18. ACCEPTANCE OF OVERCROSSINGS AND UNDERCROSSINGS; FINAL ACCEPTANCE

18.1 Acceptance of Overcrossings and Undercrossings

18.1.1 Contractor may request that Department inspect and accept a completed overcrossing or undercrossing subject to timely completion of punchlist work related thereto prior to completion of the rest of the Project. After receipt of such notices that an overcrossing or undercrossing is ready for inspection and acceptance, Department and Contractor shall conduct a joint inspection to confirm that the crossing has been completed in accordance with the approved drawings and specifications. The time for completion of each such inspection will be identified in the CPM/Payment Schedule. Department shall conduct its inspection within one week of receipt of notification from Contractor that an overcrossing or undercrossing is ready for inspection.

18.1.2 If Department finds, upon inspection, that the crossing has been completed in conformity with the Plans and Specifications, it shall issue its written acceptance thereof within five Days of completing the inspection. If a Department inspection reveals that work has not been performed in accordance with the Plans and Specifications, Department shall give Contractor a detailed description of any deficiencies. Contractor shall correct such deficiencies so the work conforms to the standards of this Contract and the corrected work shall be subject to inspection as provided herein.

18.2 Final Acceptance

18.2.1 Promptly after Substantial Completion, Contractor shall perform all Punch List items and all Work, if any, which was waived for purposes of Substantial Completion, and shall satisfy all of its other obligations under the Contract Documents, including ensuring that the Project has been completed and all components have been properly adjusted and tested. Final Acceptance of the Project shall be deemed to have occurred when all of the following have occurred:

(a) all requirements for Substantial Completion shall have been fully satisfied;

(b) Department shall have received all Working Drawings, Shop Drawings, as-built drawings of the Project, manufacturers' data, catalogues, and all maintenance manuals for all equipment throughout the Project, right of way record maps, surveys, test data and other deliverables required under the Contract Documents;

(c) all special tools purchased by Contractor as provided in the Contract Documents shall have been delivered to Department and all replacement spare parts shall have been purchased and delivered to Department free and clear of Liens;

(d) all of Contractor's and Subcontractors' personnel, supplies, equipment, waste materials, rubbish and temporary facilities shall have been removed from the Site;

(e) Contractor shall have delivered to Department satisfactory evidence that there are no outstanding Contractor Claims or claims, Liens or stop notices of any Subcontractor, laborer or third party, including utility owners, with respect to the Work, other than any previously submitted unresolved Contractor Claims and any claims, Liens or stop notices of a Subcontractor, laborer or third party, being contested by Contractor (in which event Contractor shall provide a certification listing all such matters with such detail as is requested by Department and, with respect to all Subcontractor and laborer claims,

Liens and stop notices and claims of third parties, shall include a representation of Contractor that it is diligently and in good faith contesting such matters by appropriate legal proceedings which shall operate to prevent the enforcement or collection of the same). For purposes of such certificate, the term "claim" shall include all matters or facts which may give rise to a claim;

(f) the Punch List items shall have been completed to the satisfaction of Department;

(g) all of Contractor's other obligations under the Contract Documents (other than obligations which by their nature are required to be performed after Final Acceptance) shall have been satisfied in full or waived; and

(h) Department's Chief Engineer shall have delivered to Contractor a "Certification of Final Acceptance." Such certification shall state that the Work has been constructed in accordance with the Plans and Specifications, subject only to the exceptions noted in said certification and set forth in the as-built drawings.

18.2.2 Neither the occurrence of the Final Acceptance Date nor delivery of the Certification of Final Acceptance shall relieve Contractor, any Subcontractor, the Surety or any Guarantor from any continuing obligations under the Contract Documents, including the warranty obligations under Article 11.

18.3 Assignment of Causes of Action

Contractor hereby offers and agrees to assign to Department all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. Sec. 15), arising from purchases of goods, services or materials pursuant to this Contract. This assignment shall be deemed made and shall become effective at the time final payment is tendered to Contractor, without further acknowledgment by the parties.

18.4 Special Provisions Regarding Outstanding Utility and Project Right of Way Issues

Contractor and Department acknowledge and agree that it is likely certain costs relating to Utility Relocations and eminent domain Project Right of Way acquisitions will not be finally established as of the Final Acceptance Date. Department shall have the right to withhold sufficient funds from payments otherwise owing to Contractor from the ROW/Utility Allowance and the Contingency to ensure that said costs will be paid once they have been finally determined.

18.4.1 Contractor shall use all reasonable efforts to obtain final invoices from utility owners prior to the Final Acceptance Date. In the event that any invoices have not yet been received as of such date, Contractor shall provide Department with sufficient information to determine the amount to withhold from the ROW/Utility Allowance and/or Contingency pending receipt of such invoices, and, subject to approval by Department, such amount shall be retained by Trustee as a separate account and shall not be applied as provided in Section 14.1.2.4 and/or Section 14.3.4.

18.4.2 In the event that any eminent domain cases have not been finally reconciled as of the Final Acceptance Date, an amount from the ROW/Utility Allowance and, if necessary, the Contingency deemed sufficient by Department to pay all awards and other amounts arising out of such cases shall be retained by Trustee as a separate account and shall not be applied as provided in Section 14.1.2.4 or Section 14.3.4.

18.4.3 If the ROW/Utility Allowance and Contingency contain insufficient funds to cover anticipated Utility Relocation expenses and anticipated eminent domain costs, the provisions of Sections 14.3.2 and 14.3.3 shall apply.

18.4.4 Department shall request that Trustee release the withheld ROW/Utility Allowance funds and the Contingency funds upon the later to occur of final reconciliation of all eminent domain cases or final determination of the amount owing to the utility owners.

ARTICLE 19. CHANGES IN THE WORK

19.1 Acknowledgment and Waiver; Matters Not Eligible for Change Orders

19.1.1 Acknowledgment and Waiver

This Article 19 sets forth the requirements for obtaining all Change Orders under this Contract. Contractor hereby acknowledges and agrees that the Contract Price constitutes full compensation for performance of all of the Work, subject only to those exceptions specified in this Article 19 and Section 14.1.2.5, and that Department is subject to financing constraints which have resulted in strict limitations on its ability to increase the Contract Price or extend the Guaranteed Completion Date. **Contractor hereby waives the right to make any Contractor Claim for a time extension or for any monetary compensation in addition to the Contract Price and other compensation specified in this Contract for any reason whatever, except as specifically set forth in this Article 19 and Section 14.1.2.5.**

19.1.2 Matters Not Eligible for Change Orders

Matters which are Contractor's exclusive responsibility include the following:

(a) errors, omissions, inconsistencies or other defects in the Construction Documents;

(b) any design changes requested in accordance with this Contract by Department as part of the process of approving the Draft Plans and Specifications for consistency with the requirements of the Contract Documents, including any design changes relating to Project safety (except to the extent that they arise from a change in Laws, Regulations and Ordinances that constitutes a Force Majeure event);

(c) defective or incorrect schedules of Work or changes in the planned sequence of performance of the Work (unless changes in the planned sequence of performance of the Work arise from causes which otherwise give rise to a right to a Change Order);

(d) the action or inaction of Subcontractors (unless arising from causes which otherwise give rise to a right to a Change Order);

(e) correction of nonconforming Work and review and acceptance thereof by Department (including design submittals rejected in accordance with this Contract);

(f) obtaining all Regulatory Approvals (except as provided otherwise in Section 10.3) and compliance with the terms and conditions of all Regulatory Approvals;

(g) failure by Contractor to comply with this Contract;

(h) time extensions for delays not on a Critical Path;

(i) price increases for delays not on a Critical Path (unless arising from causes which otherwise give rise to a right to a Change Order);

(j) delays in issuance of any permit or approval by any entity with jurisdiction over the subject matter of such permit or approval that is required to be obtained by Contractor;

(k) costs covered by proceeds of insurance required hereunder and insurance deductibles, except as provided otherwise with respect to the windstorm deductible under Section 19.4.1.2(d); and

(l) delays or failure in satisfying the conditions precedent to commencement of construction Work (other than Department-Caused Delays).

Contractor hereby assumes responsibility and accepts the allocated, sole risk for all matters described in this Section 19.1.2, and acknowledges and agrees that assumption and acceptance by Contractor of responsibility and allocation for all such risks, costs, expenses and delays, and the consequences and costs and expenses resulting therefrom, is reasonable under the circumstances of this Contract.

19.2 Right to Receive Additional Payment and Extension of Time

19.2.1 Before starting to work on any item which Contractor considers to be outside of the Work required by the Contract Documents, as a condition precedent to its right to receive additional payment therefor or an extension of the Guaranteed Completion Date in connection therewith, one of the following shall have occurred:

(a) Contractor shall have received a Directive Letter from Department stating that it is issued pursuant to Section 19.3.1;

(b) Contractor shall have received a Change Order for such work signed by Department issued pursuant to Section 19.3 or Section 19.4;

(c) a Directed Change directly attributable to delays caused by bad faith actions, active interference, gross negligence or comparable tortious conduct by Department, regardless of whether a Directive Letter is issued, has occurred; or

(d) Contractor shall have requested a Change Order for such work in accordance with this Article 19 that was disputed by Department, to the extent permitted in accordance with the dispute resolution process set forth in Article 27.

19.2.2 In addition, to the extent that Contractor undertakes any work that is not part of the Work without one of the preceding, Department may require Contractor to remove or otherwise undo any such work, at Contractor's sole cost and expense.

19.3 Department Directed Changes and Procedures

Department may, at any time and from time to time, without notice to any Surety, authorize and/or require changes in the Work within the general scope of this Contract pursuant to a Directive Letter or a Change Order.

19.3.1 Directive Letter

19.3.1.1 Department may at any time issue a Directive Letter to Contractor in the event of any desired change in the Work or in the event of any dispute regarding the Work required by the Contract Documents. The Directive Letter will state that it is issued under this Section 19.3.1 and will describe the work in question. Contractor will proceed with the work as and when directed, pending the

execution of a formal Change Order (or, if the letter states that the work is within the Work required by the Contract Documents, Contractor will proceed with the work as directed but shall have the right, pursuant to Section 19.4, to request that Department issue a Change Order with respect thereto). In the event that Department refuses to issue a Change Order based on Contractor's request, Contractor shall nevertheless perform all work as and when specified by Directive Letter, and shall have the right to submit the issue to dispute resolution hereunder.

19.3.1.2 The fact that a Directive Letter was issued by Department in and of itself shall not be considered evidence that in fact a Directed Change occurred, provided that the contents of a Directive Letter may be used as evidence by either party as appropriate.

19.3.2 Notice of Proposed Change/Direction

19.3.2.1 If Department desires to issue a Change Order or a Directive Letter or to evaluate whether to initiate such a change or direction, then Department may, at its discretion, issue a Notice of Proposed Change/Direction. Within 5 Business Days after Contractor's receipt of a Notice of Proposed Change/Direction, Department and Contractor shall arrange an initial consultation (at no charge to Department) to define the proposed scope of work. Within 5 Business Days following the initial consultation, Department and Contractor shall consult concerning the estimated cost and time impacts and the availability of the Contingency with respect thereto. Contractor shall provide to Department such data regarding the estimated cost and time impacts prepared by Contractor if requested by Department.

19.3.2.2 Within a reasonable time following the initial consultation and provision of data as described in Section 19.3.2.1, Department shall notify Contractor whether Department (a) wishes to issue a Change Order or Directive Letter, or (b) no longer wishes to issue a Change Order or Directive Letter.

19.3.2.3 If Department wishes to issue a Change Order or Directive Letter, Contractor shall, within a reasonable time after receipt of the notification described in Section 19.3.2.2, prepare and submit to Department the scope, price and schedule impact, if any, of the requested change or direction, incorporating and fully reflecting all requests made by Department. The cost of developing the requested data shall be included in the Change Order as reimbursable items and will be reimbursed regardless of whether such Change Order is ever finalized or performed. Contractor represents and warrants that such data will (a) personally be examined prior to delivery by an authorized officer of Contractor, (b) clearly detail how the total price and individual components of that price were determined, and (c) include all assumptions, detailed quantity takeoffs, rates of production and progress calculations, cost estimates and quotes from Subcontractors and suppliers used by Contractor to arrive at the price.

19.3.2.4 In the event that the parties agree that a change in the requirements relating to the Work has occurred but disagree as to whether the change justifies additional compensation or time or disagree as to the amount of any increase to be made to the Contract Price or extension of the Guaranteed Completion Date to be made, Department may, in its sole discretion, order Contractor to proceed with the performance of the Work in question notwithstanding such disagreement, by issuing a Directive Letter under Section 19.3.1.

19.3.2.5 Whenever Department issues a Change Order or Directive Letter respecting a Safety Directed Change, Department shall cause Department's Chief Engineer to state in the Change Order or Directive Letter that the same constitutes a Safety Directed Change. In the absence of such statement, a Directed Change shall be deemed to be a Discretionary Directed Change.

19.3.3 Payment for Directed Changes

19.3.3.1 Safety Directed Changes shall be paid from the Contingency, to the extent available.

19.3.3.2 Department shall be obligated to pay Contractor's cost of Discretionary Directed Changes from Department's own funds, based on requisitions for payment prepared and approved pursuant to Section 14.2.2, except to the extent provided in Section 9.2(a) of the Comprehensive Agreement.

19.3.3.3 In addition to costs of Discretionary Directed Changes owing to Contractor, Department shall owe to Association, and pay directly to Trustee on behalf of Association, the accrued, unpaid amounts which will be owing on the Senior Bonds and First Tier Subordinate Bonds for a period, beginning when Project revenue operations commence, equal in length to the period, if any, that the Guaranteed Completion Date is extended by the Discretionary Directed Changes; provided, however, that Department shall not be obligated to pay any such costs for Discretionary Directed Changes that extend the Guaranteed Completion Date up to the lesser of (a) two months cumulatively or (b) the remaining time, if any, between the Guaranteed Completion Date (as may be previously extended) and 49 months after the Financial Closing Date.

19.3.4 Extension of Scheduled Completion Date

If the Guaranteed Completion Date is extended as a result of a Discretionary Directed Change, the Scheduled Completion Date shall also be extended, if appropriate, up to the lesser of (a) the amount that the Guaranteed Completion Date is extended or (b) the remaining time, if any, between the Scheduled Completion Date (as may be previously extended) and 49 months after the Financial Closing Date.

19.4 Eligible Contractor-Initiated Change Orders and Procedures

19.4.1 Eligible Changes

19.4.1.1 Contractor may request a Change Order to extend the Guaranteed Completion Date only for the following excusable delays changing the duration of a Critical Path so as to delay Substantial Completion beyond the Guaranteed Completion Date:

(a) Department-Caused Delays;

(b) delays which are proximately attributable to Force Majeure events; and

(c) delays which are directly attributable to any Differing Site Condition which causes an increase in the cost of performing the Work of more than $1,000,000.

19.4.1.2 Contractor may request a Change Order to increase the Contract Price, subject to strict compliance with the requirements of this Section 19.4 and subject to certain limitations as specified in Section 19.5, and with respect to subsections (c), (d) and (e) below, subject to Section 14.3, only for increased costs directly attributable to:

(a) Work in response to a Notice of Proposed Change/Direction;

(b) Work resulting from Directed Changes for which Department has submitted a Directive Letter;

(c) Department-Caused Delays (excluding any delays from Directed Changes, which shall be reimbursable as part of the Change Orders for such Directed Changes);

(d) Force Majeure events (excluding insurance deductibles (provided that if Contractor's windstorm insurance deductible is higher than Contractor's other property insurance deductibles, Contractor's windstorm insurance deductible will be excluded only up to the amount of Contractor's other property insurance deductible amounts) and provided that in the event of (i) strikes which are not particular to a Contractor Party or the Project and (ii) Contractor's internal costs and Subcontractor costs (not including utility owner direct costs) arising from unreasonable delay by a utility owner in connection with a Utility Relocation, a price increase shall only be available to the extent that funds remain in the Contingency at Final Acceptance as set forth in Section 14.3.4); and

(e) certain Differing Site Conditions, in accordance with the following:

i. if as a result of the Differing Site Condition, the cost of performing the Work increases by $1,000,000 or less, Contractor shall absorb all such cost and receive no additional compensation;

ii. if as a result of the Differing Site Condition, the cost of performing the Work increases by more than $1,000,000, Contractor shall absorb 50% of the total cost increase up to a maximum of $1,000,000 to be absorbed by Contractor, and, subject to the reimbursement limitations set forth in Section 14.6, Contractor shall be entitled to recover any balance (referred to herein as "Reimbursable Site Work") under this Section 19.4.1.2;

iii. if two or more Differing Site Conditions affect the same location, then each Differing Site Condition shall individually be subject to the thresholds set forth in subsections (i) and (ii) above;[1] and

iv. Contractor acknowledges and agrees that 30% of any entitled reimbursement for Reimbursable Site Work shall be delayed until the Bridge Foundation Work is completed.

19.4.2 Procedures

Contractor must follow the procedure set forth in this Section 19.4.2.

1/ For example, if one location is affected by a geologic fault which is a Differing Site Condition that increases the cost of performing the Work by $800,000 and a rock formation which is a Differing Site Condition that increases the cost of performing the Work by $700,000, neither Differing Site Condition would result in any Reimbursable Site Work and Contractor shall absorb all such additional costs.

19.4.2.1 RFC Notice

Contractor shall deliver to Department written notice (an "RFC Notice") stating that an event or situation has occurred within the scope of Section 19.4.1.1 or 19.4.1.2 which Contractor believes is eligible for a Change Order. The first notice shall be labeled "RFC No. 1" and subsequent notices shall be numbered sequentially.

19.4.2.1.1 Each RFC Notice shall be delivered as promptly as possible after the occurrence of such event or situation. In the event that any RFC Notice is delivered later than ten Days after Contractor first discovered (or should have discovered in the exercise of reasonable prudence) the occurrence described therein, Contractor shall be deemed to have waived the right to collect any and all costs incurred during the period after ten Days after Contractor first discovered (or should have discovered in the exercise of reasonable prudence) the occurrence described in the RFC Notice and prior to the date of delivery of the written notice, and shall be deemed to have waived the right to seek an extension of the Guaranteed Completion Date with respect to any delay in any Critical Path which accrued during such period. Furthermore, in the event that any RFC Notice concerns any condition or material described in Section 5.1.5, Contractor shall be deemed to have waived the right to collect any and all costs incurred in connection therewith to the extent that Department is not afforded the opportunity to inspect such material or condition before it is disturbed. Contractor's failure to provide an RFC Notice within 30 Days after Contractor first discovered (or should have discovered in the exercise of reasonable prudence) the occurrence of a given event or situation shall preclude Contractor from any relief, unless Contractor can show that (a) Department was not materially prejudiced by the lack of notice, or (b) Department's designated representative specified in Section 24.1 had actual knowledge, prior to the expiration of the 30-Day period, of the event or situation and that Contractor believed it was entitled to a Change Order with respect thereto.

19.4.2.1.2 The RFC Notice shall: (a) state the facts underlying the Request for Change Order, the reasons why Contractor believes additional compensation or time will or may be due and the date of occurrence, (b) state the name, title, and activity of each Department representative knowledgeable of the facts underlying the Request for Change Order, (c) identify any documents and the substance of any oral communication involved in the facts underlying the Request for Change Order, (d) state the basis for a claim of necessary accelerated schedule performance, if applicable, (e) state the basis for a claim that the work is not required by this Contract, if applicable, (f) identify particular elements of Contract performance for which additional compensation may be sought under this Article 19 and (g) identify any potential Critical Path impacts.

19.4.2.1.3 The written notification described in Section 5.1.5.1 may also serve as a RFC Notice provided it meets the requirements for RFC Notices.

19.4.2.1.4 Within 30 Days after receipt of a RFC Notice, Department will respond in writing to Contractor to: (a) confirm that a change has occurred; (b) deny that a change has occurred; or (c) advise Contractor that the necessary information has not been submitted to decide which of the above alternatives applies, and indicate the needed information for further review.

19.4.2.1.5 Any adjustments made to this Contract shall not include increased costs or time extensions for delay resulting from Contractor's failure to timely provide requested additional information under this Section 19.4.2.1.

19.4.2.2 Delivery of Request for Change Order

Contractor shall deliver all Requests for Change Orders under this Section 19.4 to Department within 30 Days after delivery of the RFC Notice, or such longer period of time as may be allowed in writing by Department. Department may require design and construction costs to be covered by separate Requests for Change Order. If Contractor fails to deliver a Request for Change Order within the appropriate time period, Contractor shall be required to provide a new RFC Notice before it may submit a Request for Change Order.

19.4.2.2.1 Information Regarding Effect of Change

Each Request for Change Order shall include as attachments a detailed cost estimate relating thereto setting forth all consequences of the event, situation or proposed change giving rise to the proposed Change Order, and including (a) if Contractor claims that such event, situation or change requires a modification to the Work, the proposed modification of the Contract Price and payment allocations set forth in the CPM/Payment Schedule (if any) occasioned by such change and all facts justifying such modification in a format acceptable to Department, and (b) if Contractor claims that such event, situation or change affects a Critical Path, an impacted delay analysis indicating all activities represented or affected by the change, with activity numbers, durations, predecessor and successor activities, resources and cost, with a narrative report, in form satisfactory to Department, which compares the proposed new schedule to the current approved schedule.

19.4.2.2.2 Justification

Each Request for Change Order initiated by Contractor hereunder shall include an attachment containing a detailed narrative justification therefor, describing the circumstances underlying the proposed change, identifying the specific provision(s) of Article 19 which permit a Change Order to be issued, and describing the data and documents (including all data and reports required under Section 19.7.1.1) which establish the necessity and amount of such proposed change.

19.4.2.2.3 Contractor Representation

Each Request for Change Order shall contain a written representation by Contractor that the amount of time and/or compensation set forth therein includes all known and anticipated impacts or amounts, direct, indirect and consequential, which may be incurred as a result of the event or matter giving rise to such proposed change.

19.4.2.2.4 Cost Proposal

Each Request for Change Order shall include a detailed cost proposal identifying all categories of costs, supported by documentation satisfactory to Department (a) showing all impacts on the Contract from Work additions, deletions and modifications shown in the Change Order being priced and (b) setting out the proposed costs in such a way that a fair evaluation can be made. Contractor shall submit a detailed estimate of the cost of the change to Department. This estimate must include a breakdown for labor, materials, equipment, overhead (which includes all indirect costs), contingencies and profit. If the work is to be performed by Subcontractors and if the work is sufficiently defined to obtain Subcontractor quotes, Contractor shall obtain quotes (with breakdowns showing cost of labor, materials, equipment, overhead and profit) on the Subcontractor's stationery and shall include such quotes as back-up for Contractor's estimate. Contractor represents and warrants that the cost proposal will (a) personally be examined prior to delivery by an authorized officer of Contractor, (b) clearly detail

how the total price and individual components of that price were determined, and (c) include all assumptions, detailed quantity takeoffs, rates of production and progress calculations, cost estimates, and quotes from Subcontractors and suppliers used by Contractor to arrive at the price.

19.4.2.2.5 Structural or Capacity Reductions as a Result of a Discretionary Directed Change

Requests for Change Order proposing structural or capacity reductions as a result of a Discretionary Directed Change, but no other Requests for Change Order, may consider the effect on Contractor's ability to comply with its Warranties.

19.4.2.3 Incomplete Requests for Change Orders

19.4.2.3.1 If any requirements set forth in Section 19.4.2.2 cannot be met due to the nature of the occurrence, Contractor shall provide an incomplete Request for Change Order which fills in all information capable of being ascertained and which (a) includes a list of those Change Order requirements which are not fulfilled together with an explanation reasonably satisfactory to Department stating why such requirements cannot be met, (b) provides such information regarding projected impact on the Critical Path as is reasonably available, and (c) in all events includes sufficient detail to ascertain the basis for the proposed Change Order and for any ascertainable amounts with respect thereto.

19.4.2.3.2 Contractor shall furnish, when requested by Department, such further information and details as may be required to determine the facts or contentions involved. Contractor agrees that it shall give Department access to any and all of Contractor's books, records and other materials relating to the Work, and shall cause its Subcontractors to do the same, so that Department can investigate the basis for such proposed Change Order. Contractor shall provide Department with an update to each outstanding incomplete Request for Change Order if any change in the data (either singularly or cumulatively) causes a price or schedule change by more than 10% of such Request for Change Order, describing the status of all previously unfulfilled requirements and stating any changes in projections previously delivered to Department, excess time expenditures to date and excess time anticipated for completion of the activities for which the time extension is claimed. Department may reject the Request for Change Order at any point in the process. Once a complete Request for Change Order is provided, Department's failure to respond thereto within 21 Days of delivery of the request shall be deemed a rejection of such request. Although Department intends for Department to review incomplete Requests for Change Order for the purposes described in Section 19.4.2.4, Department shall have no obligation to review the back-up associated with any Request for Change Order until a complete Request for Change Order is provided.

19.4.2.4 Importance of Timely Response

Contractor acknowledges and agrees that, due to the limited availability of funds for the Project, timely delivery of notification of such events and situations and Requests for Change Order and updates thereto are of vital importance to Department. Department is relying on Contractor to evaluate promptly, upon the occurrence of any event or situation, whether the event or situation will affect the CPM/Payment Schedule and, if so, whether Contractor believes a time extension and/or claim on the Contingency is required hereunder. If an event or situation occurs which may affect the Contract Price or the Guaranteed Completion Date, Department will evaluate the situation and determine whether it wishes to make any changes to the definition of the Project so as to bring it within Department's funding and time restraints. The following matters (among others) shall be considered in determining whether Department has been prejudiced by Contractor's failure to provide notice in a timely fashion: the effect

of the delay on alternatives available to Department (that is, a comparison of alternatives which are available at the time notice was actually given and alternatives which would have been available had notice been given within ten Days after occurrence of the event or when such occurrence should have been discovered in the exercise of reasonable prudence) and the impact of the delay on Department's ability to obtain and review objective information contemporaneously with the event.

19.4.2.5 Review of Subcontractor Claims

Prior to submission by Contractor of any Request for Change Order which is based in whole or in part on any facts alleged in a submittal by any Subcontractor to Contractor, Contractor shall have reviewed all such Subcontractor claims and determined in good faith whether the claims are justified as to both entitlement and amount, and Contractor's Request for Change Order shall include only those items which Contractor has determined are so justified and which otherwise meet all requirements hereunder for Contractor-initiated Change Orders. Each Request for Change Order involving Subcontractor Work, and each update to an incomplete Change Order request involving such Work shall include a summary of Contractor's analysis of all Subcontractor claims components and shall include a certification signed by Contractor's Project Manager stating that Contractor has reviewed and approved any audit data included in the request. Any Request for Change Order involving Subcontractor Work which is not accompanied by such an analysis and certification shall be considered incomplete.

19.5 Pricing

19.5.1 Limitations

19.5.1.1 Limitation on Contract Price Increases

Any increase in the Contract Price allowed hereunder shall exclude: (a) costs caused by the breach of contract or fault or negligence, or act or failure to act of Contractor, its employees, agents, officers or Subcontractors or any other Persons for whom Contractor may be contractually or legally responsible; (b) costs which could reasonably be avoided by Contractor, including by resequencing, reallocating or redeploying its forces to other portions of the Work (including any additional costs reasonably incurred in connection with such reallocation or redeployment); and (c) costs for remediation of any nonconforming Work.

19.5.1.2 Limitation on Delay Costs

Any increase in the Contract Price due to delays eligible for Change Orders under Section 19.4.1.2 shall be limited to overhead costs arising from such delays and direct costs resulting from such delays, provided that if the delay does not impact a Critical Path activity, the increase in the Contract Price due to such delay shall be limited to the actual costs of the affected workers and equipment that cannot be mitigated. Before Contractor may obtain any increase in the Contract Price to compensate for additional or extended overhead or direct costs resulting from delay, Contractor shall be required to demonstrate to Department's satisfaction that (a) the change in the Work or other event or situation which is the subject of the Request for Change Order has caused or will result in an identifiable and measurable disruption of the Work, (b) the delay or cost was not due to any breach of contract or fault or negligence, or act or failure to act of Contractor, its employees, agents, officers or Subcontractors or any other Persons for whom Contractor may be contractually or legally responsible, and could not reasonably have been avoided by Contractor, including by resequencing, reallocating or redeploying its forces to other portions of the Work (including any additional costs reasonably incurred in connection with such reallocation or redeployment), (c) the delay for which compensation is sought is not

concurrently caused by a matter or circumstance for which Contractor is responsible and (d) Contractor has suffered or will suffer actual overhead and direct costs due to such delay, each of which overhead and direct costs shall be documented in a manner satisfactory to Department.

19.5.2 Pricing Methodologies

Department and Contractor (on its own behalf and on behalf of its Subcontractors) shall endeavor to negotiate a reasonable cost for each Change Order. If the parties agree that Contractor is entitled to additional compensation or additional time for the work which is the subject of a Change Order, but cannot agree as to the amount, then unless, given the nature of such change, Department and Contractor agree that a time and materials approach is not practicable, Contractor shall be entitled to receive payment as provided in Sections 19.5.2.1, 19.5.2.2 and 19.5.2.3, subject to Department's right to not issue a Change Order or to refuse to pay incurred costs which Department deems unreasonable. If the parties agree that a time and materials approach is not practicable, Department shall reduce the amount of the price increase or time extension as Department deems appropriate and Department shall execute and deliver a Change Order reflecting such reductions to Contractor, within a reasonable period after receipt of a request by Contractor to do so.

19.5.2.1 Subject to Sections 19.5.2.2 and 19.5.2.3, compensation for time and material Change Orders shall be limited to such of the following direct costs, whether incurred by Contractor or a first-tier construction Subcontractor, which are actually and reasonably incurred as a direct and sole result of the event or matter giving rise to the change and no others:

(a) the cost of labor, including social security, old age survivors and disability insurance, unemployment insurance, fringe benefits required by agreement or custom and workers' compensation insurance;

(b) the cost of materials, supplies and equipment, including the cost of transportation, taxes and duties, whether incorporated in the Project or consumed;

(c) rental or depreciation costs of plant, buildings, machinery, equipment and hand tools, whether Contractor owned or rented from others;

(d) permit fees and sales and use or similar taxes related to such changes; and

(e) costs directly attributable to the charges of consultants or lower tier Subcontractors directly attributable to performance of the change.

19.5.2.2 Direct costs allowable under Section 19.5.2.1 shall either be marked-up by 15% for overhead and profit in the event of non-subcontracted Work, or shall be marked up by 22.5% for cumulative overhead and profit of Contractor and Subcontractors in the event of subcontracted Work.

19.5.2.3 The following items are included in the Change Order mark-up for overhead and profit:

(a) Salary and expenses of executive officers, supervising officers or supervising employees and technical or engineering employees;

(b) Contractor's Project Manager;

(c) Clerical or stenographic employees;

(d) Drafting room accessories such as paper, tracing cloth, blue printing, etc.;

(e) Any and all field and home office overhead and operating expenses whatsoever;

(f) Subsistence and travel expenses for all personnel;

(g) All bond and insurance premiums;

(h) Attorneys' fees and costs;

(i) All other indirect costs;

(j) Costs of furnishing the reports described in Section 19.7; and

(k) Profit.

19.6 Limitation on Time Extensions

Any extension of the Guaranteed Completion Date allowed hereunder shall exclude any delay to the extent that it (a) was due to the fault or negligence, or act or failure to act of Contractor, its employees, agents, officers or Subcontractors or any other Persons for whom Contractor may be contractually or legally responsible, or (b) could reasonably have been avoided by Contractor, including by resequencing, reallocating or redeploying its forces to other portions of the Work. Contractor shall be required to demonstrate to Department's satisfaction that the change in the Work or other event or situation which is the subject of the Request for Change Order seeking a change in the Guaranteed Completion Date has caused or will result in an identifiable and measurable disruption of the Work so as to delay completion thereof and change the duration of a Critical Path which was not due to any such fault or negligence and could not reasonably have been avoided by Contractor, including by resequencing, reallocating or redeploying its forces to other portions of the Work.

19.7 Change Order Records

Contractor shall maintain its records in such a manner as to provide a clear distinction between the direct costs of Work for which it is entitled (or for which it believes it is entitled) to an increase in the Contract Price and the costs of other operations. Contractor shall contemporaneously collect, record in writing, segregate and preserve (a) all data necessary to determine the costs of all Work which is the subject of a Change Order or a requested Change Order, but specifically excluding negotiated and issued Change Orders, and (b) all data necessary to show the actual impact (if any) of the change on each Critical Path activity with respect to all Work which is the subject of a Change Order or a proposed Change Order, if the impact on the CPM/Payment Schedule is in dispute. Such data shall be provided to Department and any authorized representative of such Persons reviewing any Contractor Claim or dispute regarding compensation for such Work as provided in Section 12.1.

19.7.1 Daily Work Reports and Data Collection

19.7.1.1 Contractor shall collect and preserve concurrent time and materials data and records in written form for (a) all time and materials Work and (b) all Work performed which Contractor

believes constitutes extra work, pending issuance of a Change Order or resolution of any dispute in accordance with Article 27. At reasonable times as requested by Department, Contractor shall provide Department with a copy of each such item; provided, however, that the provision of such information shall not constitute a RFC Notice under Section 19.4.2.1.

19.7.1.2 From the records and data described in Section 19.7.1.1, Contractor shall furnish Department completed daily work reports for each day's Work to which Section 19.7.1.1 applies. The daily time and material Work reports shall be detailed as follows:

(a) Name, classification, date, daily hours, total hours, rate, and extension for each worker (including both construction and non-construction personnel) for whom direct reimbursement is requested.

(b) Designation, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment.

(c) Quantities of materials, prices, and extensions.

(d) Transportation of materials.

(e) For construction labor, the cost of property damage, liability, and worker's compensation insurance premiums, unemployment insurance contributions, bonds, and social security tax.

Monthly, and at any time upon request by Trustee or Association, the reports shall also state the total costs to date for the time and materials Work.

19.7.2 Supplier's Invoices

Material charges shall be substantiated by valid copies of Supplier's invoices. Such invoices shall be submitted with the daily time and material Work reports, or if not available, they shall be submitted with subsequent daily time and material Work reports.

19.7.3 Execution of Reports

All time and materials reports shall be signed by Contractor's Project Manager.

19.8 Disputes

The failure of Department and Contractor to agree to any Change Order under this Article 19 (including agreement as to the amount of compensation allowed under Section 19.5.2 and any disputed amount of the increase in the Contract Price or extension of the Guaranteed Completion Date in connection with a Change Order) shall be a dispute to be resolved in accordance with Article 27. Except as otherwise specified in the Change Order, execution of a Change Order by both parties shall be deemed accord and satisfaction of all claims of any nature arising from or relating to the Work covered by the Change Order. If the courts of the State determine that Contractor is entitled to be paid for any work which is the subject of a dispute, the Contractor Claim and the award of the court shall be limited to the actual incremental costs incurred by Contractor with respect to the disputed matter (crediting Department for any corresponding reduction in Contractor's other costs).

ARTICLE 20. SUSPENSION OF ALL OR PART OF WORK

20.1 Suspension for Convenience

Department may order Contractor in writing to suspend, delay, or interrupt all or any part of the Work for a period of time not to exceed 24 hours, as Department may determine to be appropriate for the convenience of Department. Any suspension for convenience in excess of 24 hours shall require Department's signature and will be considered a Directed Change.

20.2 Suspension under Section 25.4

Contractor shall have the right to suspend the Work as the result of any failure or refusal by Trustee to provide funds in accordance with the Indenture as provided in Section 25.4.1; and Contractor and Department shall each have the right to suspend its obligations under this Contract as the result of the unavailability of funds under the Indenture as provided in Sections 25.4.2 and 25.4.3.

20.3 Suspension for Other Reasons

20.3.1 Department has the authority to suspend the Work wholly or in part, for such period as Department deems necessary because of the failure on the part of Contractor to carry out orders given, or to perform any requirements of the Contract Documents. Contractor shall promptly comply with the written order of Department to suspend the Work wholly or in part. The suspended Work shall be resumed when appropriate corrective action has been taken.

20.3.2 Contractor shall not be entitled to any increase in the Contract Price or extension of the Guaranteed Completion Date in connection with any suspension under this Section 20.3, including for the work described in Section 20.4.

20.4 Project Safety

In the event of a suspension of Work under this Article 20, Contractor shall undertake all work necessary to ensure Project safety, including providing a safe, smooth, and unobstructed passageway through the construction area for use by public traffic during the period of such suspension.

ARTICLE 21. INDEMNITY; HAZARDOUS SUBSTANCE LIABILITY; INDEMNIFICATION PROCEDURES

21.1 Indemnifications by Contractor

(a) Except as otherwise expressly provided in subsection (b) below, Contractor shall indemnify, protect, defend, hold harmless and release each State Indemnitee and Association Indemnitee from and against any and all third party Claims arising out of the following:

(i) any error, act or omission of any Contractor Party, provided that the indemnity under this subsection (a)(i) concerning Claims not related to Project Right of Way acquisition, Utility Relocations, procurement and documentation shall be limited to such Claims arising out of death, bodily injury or property damage suffered by third parties;

(ii) any violation by any Contractor Party of Laws, Regulations and Ordinances in connection with or relating to the Project or the Work;

(iii) any mechanic's, materialman's or design professional's lien on Department's right, title and interest in and to any Project Right of Way or other property arising out of the actual or alleged furnishing of labor, materials or services to or for the Project or any portion thereof by or on behalf of or at the request of any Contractor Party and due to Contractor's failure or alleged failure to pay to others any amount due or alleged to be due, provided that there has been no default in payment to Contractor under this Contract;

(iv) any failure of any Contractor Party to pay any sales, use or other taxes due or alleged to be due in connection with the Work or the purchase, supply or use of any materials, services or equipment;

(v) any Hazardous Substances originally introduced to or brought onto any Project Right of Way or other Department property by any Contractor Party;

(vi) the presence, spreading, migration, release, remediation, storing, transportation or disposal of Pre-Existing Hazardous Substances not discovered during site acquisition work due to failure of any Contractor Party to conduct investigations according to the procedures and provisions required by this Contract;

(vii) failure of any Contractor Party to handle, store, transport, monitor, remediate or dispose of, in compliance with Laws, Regulations and Ordinances in effect at the time of the activity in question, Pre-Existing Hazardous Substances which are or become known or apparent to any Contractor Party through site investigation or during the course of construction;

(viii) exacerbation, due to the negligence, recklessness or willful misconduct of any Contractor Party, of the release, spreading, migration or toxicity of Hazardous Substances which are or become known or apparent to or reasonably suspected by any Contractor Party through site investigation or during the course of construction;

(ix) infringement by any Contractor Party (excluding third party equipment and software vendors) of any actually or allegedly patented, copyrighted, trademarked, service-marked or other proprietary materials, equipment, devices or processes, including Intellectual Property and

including infringement by State due to Contractor's failure to obtain any ownership or license required to be obtained pursuant to Section 12.7; and

(x) fraud or intentional misrepresentation by any Contractor Party.

(b) Contractor's indemnities exclude the portion of liability on a Claim that is attributable (i) to the culpability of a State Indemnitee or an Association Indemnitee or (ii) to a deficiency in a Department design or construction standard which either (A) is unknown to Contractor or (B) although known to Contractor, is communicated in writing to Department and not waived by Department. If the culpability of a State Indemnitee or an Association Indemnitee or such deficiency in a Department design or construction standard has contributed to a loss, Contractor shall not be obligated to indemnify State Indemnitees and Association Indemnitees for the proportionate share of such Claim caused thereby.

(c) For purposes of this Section 21.1, a "third party" means any person or entity other than a State Indemnitee or an Association Indemnitee, except that a third party includes (i) any State employee, agent and contractor or his or her heir or representative who asserts a Claim arising out of death, bodily injury or property damage against a State Indemnitee or an Association Indemnitee and which is not covered by State's worker's compensation program, and (ii) any State department or agency other than Department which in the exercise of its authority imposes upon Department Hazardous Substance remediation requirements or costs which are within the scope of an indemnity set forth in this Section 21.1.

21.2 No Indemnity Regarding Pre-Existing Hazardous Substances

Except to the extent provided in Sections 21.1(a)(vi), (vii), and (viii), the parties agree that neither shall have any obligation to indemnify the other or any third-party beneficiary or assignee with respect to any Claim relating to Pre-Existing Hazardous Substances.

21.3 Defense and Indemnification Procedures

(a) If Department receives notice of or otherwise has actual knowledge of a Claim which it believes is within the scope of Contractor's indemnification under Section 21.1, it shall by writing as soon as practicable (i) inform Contractor of such Claim; (ii) send to Contractor a copy of all written materials Department has received asserting such Claim and (iii) notify Contractor that either (A) the defense of such Claim is being tendered to Contractor or (B) Department has elected to conduct its own defense for a reason set forth in subsection (e) below.

(b) If the insurer under any applicable insurance policy accepts tender of defense, Contractor and Department shall cooperate in the defense as required by the insurance policy. If no defense is provided by insurers under potentially applicable insurance policies, then subsections (c), (d), (e) and (f) below shall apply.

(c) If the defense is tendered to Contractor, it shall within 45 Days of said tender deliver to Department a written notice stating that Contractor (i) 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, (ii) accepts the tender of defense but with a "reservation of rights" in whole or in part or (iii) rejects the tender of defense if it reasonably determines it is not required to indemnify against the Claim under Section 21.1. If such notice is not delivered within such 45 Days, the tender of defense shall be deemed rejected.

(d) If Contractor gives notice under subsection (c)(i) above, Contractor shall have the right to select legal counsel for the State Indemnitees and Association Indemnitees, subject to reasonable approval of the State Attorney General, and Contractor 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: (A) Contractor shall at Contractor's expense, fully and regularly inform Department of the progress of the defense and of any settlement discussions; and (B) Department shall, at Contractor's expense for all of Department's third party expenses, fully cooperate in said defense, provide to Contractor 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 Department and maintain the confidentiality of all communications between it and Contractor concerning such defense.

(e) Department shall be entitled to select its own legal counsel and otherwise control the defense of such Claim if: (i) the defense is tendered to Contractor and it refuses the tender of defense, or fails to accept such tender within 45 Days, or reserves any right to deny or disclaim such full indemnification thereafter; or (ii) Department, at the time it gives notice of the Claim or at any time thereafter, reasonably determines that (A) a conflict exists between it and the Contractor which prevents or potentially prevents Contractor from presenting a full and effective defense or (B) Contractor is otherwise not providing an effective defense in connection with the Claim and Contractor lacks the financial capacity to satisfy potential liability or to provide an effective defense. Department may assume its own defense pursuant to subsection (e)(ii) above by delivering to Contractor written notice of such election and the reasons therefor. A refusal of, or failure to accept, a tender of defense may be treated by Department as a Claim against Contractor subject to resolution pursuant to Article 27.

(f) If Department is entitled and elects to conduct its own defense pursuant hereto, all reasonable costs and expenses it incurs in investigating and defending and Claim for which it is entitled to indemnification hereunder shall be reimbursed by Contractor on a current basis. In the event Department is entitled to and elects to conduct its own defense, then it shall have the right to settle or compromise the Claim with the Contractor's prior written consent, which shall not be unreasonably withheld or delayed, or with approval of the court, and with the full benefit of the Contractor's indemnity.

ARTICLE 22. INSURANCE AND BONDING

22.1 General and Auto Liability Insurance

22.1.1 Contractor shall obtain and keep in force a policy or policies of commercial general liability insurance (form number CG00 01 11 88 ISC 1988, 1991 or successor form specifically and exclusively for the Project and Project Right of Way), including premises/operations and products/completed operations. Such insurance policy shall contain coverage for bodily injury, broad form property damage, personal injury, blanket contractual liability either by its original form or by endorsement, and liability insurance either by its original form or by endorsement, providing coverage for claims related to the Project or Project Right of Way and related construction and staging areas.

22.1.2 Such insurance policy shall provide coverage of $25 million combined single limit of liability for bodily injury, property damage and personal injury per occurrence, with a general aggregate limit of $25 million per policy period. The amount of the deductible applicable to Contractor shall be subject to Department's reasonable approval. Contractor may obtain the required coverages through a combination of primary and excess insurance policies.

22.1.3 Contractor shall obtain a policy of insurance specifically and exclusively for the Project and Project Right of Way providing liability coverage for claims of bodily injury and property damage arising from the use of motor vehicles by or on behalf of Contractor. Such insurance policy shall provide coverage of $5 million combined single limit of liability for bodily injury and property damage per accident.

22.2 Professional Liability Insurance

Contractor shall cause to be procured by each entity rendering design for the Project, and shall keep or cause to be kept in force, a policy for professional liability or errors and omissions coverage including coverage for the James River bridges. Such insurance shall be claims made insurance and shall have a limit of $5 million for each claim plus $20 million specifically and exclusively for each claim respecting the James River bridges, with a general aggregate limit of $5 million and $20 million, respectively, including defense costs, for negligent acts, errors, or omissions in performing design. The limit of liability shall be maintained at all times until three years after the work is completed by the insured respecting the Project. The insurance shall include a deductible not greater than $150,000 for each claim, for which Contractor shall be responsible. The other terms, conditions and exclusions of the policy shall be subject to Department approval.

22.3 Property Insurance

22.3.1 The requirements respecting property insurance during the course of construction are as follows:

(a) Prior to commencement of construction in any Construction Segment and thereafter throughout the course of any such construction or any substantial repair, alteration, reconstruction, restoration or replacement in such Construction Segment, Contractor shall obtain and keep in force All-Risks Builder's Risk Insurance coverage for the Project in such Construction Segment. Such policy of insurance shall provide coverage for all risk of physical injury or loss to the modifications, alterations or improvements which are in the course of, directly affected by or part of

construction, excluding road beds and surfaces unless located on a bridge or ramp or on or in another structure.

(b) Limits of coverage shall be the full replacement value of the James River bridges including demolition.

22.3.2 Contractor, the State and Department shall be entitled to loss recovery as their respective interests may appear, but subordinated to any loss payee rights of Trustee under the Indenture. Each policy shall not require a loss deductible of more than 1% of the covered values at risk at the time of the loss for all perils.

22.3.3 Contractor shall include Department as a named insured, under an endorsement form Department approves in writing, in any policy of insurance Trustee requires to protect against casualty loss to the Project not otherwise required to be insured under Section 22.3.1.

22.4 Worker's Compensation Insurance

22.4.1 At all times required by law Contractor shall procure and maintain in full force and effect insurance coverage for all employees suffering bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. Satisfaction of these requirements shall include:

(a) full participation in any required governmental occupational injury and/or disease insurance program, to the extent participation in such program is mandatory in any jurisdiction;

(b) purchase of workers' compensation and occupational disease insurance providing benefits to employees in full compliance with all applicable Laws, Ordinance and Regulations, but only to the extent such coverage is not provided under a mandatory government program as in subsection (a) above; and/or

(c) maintenance of a legally permitted and governmentally approved program of self-insurance for workers' compensation and occupational disease.

22.4.2 Except to the extent prohibited by law, the program for Contractor's compliance with workers' compensation and occupational disease Laws, Regulations and Ordinances set forth in Section 22.4.1 shall provide for a full waiver of rights of subrogation against any State Indemnitee and any Association Indemnitee.

22.4.3 If Contractor fails to effect and maintain a program of compliance with applicable worker's compensation and occupational disease Laws, Regulations and Ordinances and a State Indemnitee and/or Association Indemnitee incurs fines or is required by law to provide benefits to such employees, or to obtain coverage for such employees, Contractor shall indemnify the State Indemnitee and/or Association Indemnitee for such fines, payment of benefits to Contractor or Subcontractor employees or their heirs or legal representatives, and/or the cost of effecting coverage on behalf of such employees. Any amount Contractor owes to the State Indemnitee and/or Association Indemnitee pursuant to the indemnity may be deducted from any payments Department owes Contractor pursuant to this Contract.

22.4.4 In addition to complying with the provisions for workers' compensation above, Contractor shall at all times required by law maintain coverage for employers liability with a policy limit of $5 million per accident.

22.5. Other Insurance Covenants

22.5.1 Each insurance policy (or the particular insurance policies specified below) shall:

(i) be in form and substance as is then standard in and acceptable to the State Corporation Commission's Bureau of Insurance for policies of like coverage;

(ii) be issued by insurance carriers licensed to do business in the State and having a current policyholder's management and financial size category rating of not less than "AX" according to A.M. Best's Insurance Reports Key Rating Guide (except for policies underwritten by Lloyd's of London and approved English companies acceptable to the State and approved in writing by Department), or of recognized financial responsibility and otherwise agreed by the parties and approved by Department in writing;

(iii) provide coverage on an "occurrence" basis and not a "claims made" basis (with the exception of professional liability and errors and omissions policies). All professional liability and errors and omissions policies written on a "claims made" basis shall include a tail period of at least three years after expiration of the policy period;

(iv) provide that no deductibles or self-insured retentions shall be applied against the State or Department;

(v) provide that the insurance policy cannot be canceled, suspended, lapsed or modified upon less than 30 Days prior written notice by registered or certified mail to Department;

(vi) with respect to the insurance policies described in Sections 22.1 and 22.3 (both primary and excess):

(A) provide that the coverage thereof is primary and non-contributory coverage with respect to all named or additional insureds; and

(B) show, on additional insured endorsement forms approved by Department in writing, Department, the State and, except for the Builder's Risk policy, Association, and their respective directors and officers as additional insureds at policy inception as to any insured loss or liability arising out of or in any way related to the Project or Project Right of Way, provided that with respect to the insurance under Section 22.1.3, the additional insured status shall not cover Department owned or hired vehicles; and

(vii) contain no provisions or exclusions inconsistent with this Contract.

22.5.2 At the time Department is required to procure each insurance policy, and thereafter not less than 30 Days prior to the expiration date of each insurance policy required hereunder, Contractor shall deliver or cause to be delivered to Department a binder or certificate of insurance from the broker, agent or carrier, in form reasonably satisfactory to Department, stating the identity of all carriers, identity of named and additional insureds, type of coverage, description of all endorsements, policy limits, deductibles, subrogation waiver, other essential policy terms and a statement of non-cancellation

consistent with Section 22.5.1(v). In addition, as soon as they become available, Contractor shall deliver or cause to be delivered to Department (i) a complete certified copy of each such insurance policy or modification, or renewal or replacement insurance policy and additional insured endorsements and (ii) satisfactory evidence of payment of the premium therefor. If Department does not receive the foregoing proof of coverage and payment within five Business Days after delivering written request therefor, Department may, in addition to any other available remedy, without obligation and without further inquiry as to whether such insurance is actually in force, obtain such an insurance policy; and Contractor shall reimburse Department for the cost thereof upon demand.

22.5.3 If on account of Contractor's failure to comply with the provisions of this Section 22.5, Department is adjudged to be a co-insurer (through admission or stipulation by Contractor or court decision), then any loss or damage it shall sustain by reason thereof shall be borne by Contractor and Contractor shall immediately pay the same upon receipt of written demand therefor and evidence of such loss or damage.

22.5.4 Contractor shall observe and comply with the lawful requirements of all insurance policies. Contractor also shall perform and satisfy the commercially reasonable requirements of insurance companies writing such types of insurance policies so that at all times companies of good standing and meeting the requirements of Section 22.5.1(ii) shall be willing to write or to continue such coverage.

22.5.5 Any insurance coverage required in this Article 22 may be effected by a policy or policies of blanket insurance, provided that (i) the Project, Project Right of Way and related construction and staging areas are specifically identified therein, by endorsement or otherwise, as included in the coverage provided; (ii) the amount of the total insurance allocated to the Project, Project Right of Way and related construction and staging areas shall be such as to furnish protection equivalent to that which would be afforded by separate insurance policies in the amounts herein required; and (iii) in all other respects any such blanket policy or policies shall comply with all other provisions of this Article 22. In any such case Contractor shall deliver or cause to be delivered to Department a certified copy of such policy.

22.5.6 Department makes no representation that the limits of liability specified for the insurance policies to be carried pursuant to this Article 22 are adequate to protect Contractor against its undertakings under this Contract or any other Project Agreement or preclude Department from taking any actions as are available to it under this Contract or otherwise at law. Department shall not be limited to the amount of the insurance premium not paid in the proof of any damages it may claim against Contractor or any other person arising out of or by reason of failure of Contractor to provide and keep in force the insurance policies required by this Article 22; but Department shall instead be entitled to recover the full amount of damages available.

22.5.7 If the insurance carriers for any insurance policy described in this Article 22 deny coverage to Contractor or Department with respect to any Contractor Claims reported to such carriers, Contractor and Department 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.

22.6 Performance and Payment Bonds

22.6.1 Concurrently with execution of this Contract, Contractor has provided to Department a Payment Bond in the amount of $288,108,661 in the form attached hereto as Appendix 4. The Payment Bond shall remain in full force and effect until the later to occur of one year after the Final Acceptance

Date or resolution of all claims filed thereunder. Concurrently with execution of any Subcontract with a first-tier construction Subcontractor, Contractor shall cause each such Subcontractor to provide to Department a Performance Bond in the amount of 100% of the Subcontract price, in the form attached hereto as Appendix 5. Each Performance Bond shall remain in full force and effect until the final expiration of all Warranties.

22.6.2 The Payment and Performance Bonds shall be executed by either Contractor or the Subcontractor, as appropriate, and a surety company authorized to do business in the State in accordance with the laws of the State and the rules and regulations of the State Corporation Commission. In order to be considered properly executed, the bonds shall include authorized signatures and titles.

22.6.3 In lieu of Payment or Performance Bonds, Contractor may furnish a certified check or cash escrow in the face amount required for each of the bonds, which will be held for the full period as applicable for each bond.

22.6.4 After Final Acceptance, each Performance Bond may be reduced to an amount not less than 20% of the original amount thereof.

22.7 Completion Guaranty

Concurrently with execution of this Contract, Contractor has provided to Department the Completion Guaranty in the form attached as Exhibit D to the Comprehensive Agreement, executed by FC, MKC (Delaware) and MKC (Ohio) (each a "Guarantor").

ARTICLE 23. CONTRACTING PRACTICES

23.1 Obligation to Refrain from Discrimination

Contractor shall comply with Section 11.2 of the Comprehensive Agreement.

23.2 Disadvantaged Business Enterprises

23.2.1 Department has adopted a Disadvantaged Business Enterprises ("DBE") program (which consists of both minority-owned firms and women-owned firms) pursuant to which its policy is to allow DBEs the opportunity to participate as contractors and subcontractors in the design and construction of the Project. Department has agreed to a DBE participation goal for the Project at 5% of the portion of the Contract Price related to construction. Contractor shall diligently seek to comply with Department's DBE participation goal and the objectives set forth in the Minority Business Enterprise Subcontracting Plan set forth in Appendix 7 hereto, and shall in all events comply with the commitments made in the Minority Business Enterprise Subcontracting Plan set forth in Appendix 7 hereto.

23.2.2 Contractor shall incorporate in all Subcontracts the requirement to diligently seek to comply with Department's DBE participation goal and the objectives set forth in the Minority Business Enterprise Subcontracting Plan set forth in Appendix 7 hereto, and to in all events comply with the commitments made in the Minority Business Enterprise Subcontracting Plan set forth in Appendix 7 hereto.

23.3 Minority Employment and Contracting Procedures

23.3.1 Contractor acknowledges and agrees that it is the policy of Department to promote and ensure economic advancement of minorities and women through employment. Department hereby adopts a minority hiring goal for the Project of achieving new hires for the labor force, in all categories of Work, proportionately representative of the minority groups residing in the standard metropolitan statistical area in which the Project is located. Department shall provide to Contractor, when from time to time requested, its current figures on the percentages of minorities in the population of such standard metropolitan statistical area, and such figures shall be the basis for Contractor's hiring efforts for the purposes of this Contract. Contractor shall employ or select employees possessing the necessary skill, expertise, cost level and efficiency for the performance of the Work.

23.3.2 Contractor shall in all Subcontracts require that, to the greatest extent reasonably feasible, any new hires for the labor force in all categories for such Subcontracts satisfy the foregoing minority hiring goal.

23.4 Subcontracts

23.4.1 Each instrument evidencing any agreement of Contractor with any Subcontractor shall provide that, pursuant to terms in form and substance satisfactory to Department, (a) the rights (but not the obligations) of Contractor under such instrument are assigned to Department and their respective successors and assigns (contingent only upon written acceptance of the assignment from the assignee(s) or its (their) successor(s) or assign(s) following default by Contractor or termination or expiration of this Contract), and (b) all warranties, guarantees and indemnifications (express and implied) of such Subcontractor shall inure to the benefit of Department and its successors and assigns.

23.4.2 Notwithstanding any Subcontract or agreement with any Subcontractor, Contractor shall be fully responsible for all of the Work (except as may be expressly provided to the contrary herein). Department shall not be bound by any Subcontract, and no Subcontract shall include a provision purporting to bind them.

23.4.3 Contractor shall, each month and from time to time upon request, provide Department with a list of all Subcontractors, shall allow Department access to all Subcontracts and shall deliver to Department, within ten days after receipt of a request from Department, copies of all Subcontracts as may be requested.

ARTICLE 24. REPRESENTATIVES

24.1 Designation of Representatives; Cooperation with Representatives

24.1.1 Department and Contractor shall each designate an individual or individuals who shall be authorized to make decisions and bind the parties on matters relating to the Contract Documents. Appendix 8 hereto provides the initial designations. Such individuals shall constitute Authorized Department Representatives and Authorized Contractor Representatives, respectively. Such designations may be changed by a subsequent writing delivered to the other party in accordance with Section 20.3 of the Comprehensive Agreement. The parties may also designate technical representatives who shall be authorized to investigate and report on matters relating to the construction of the Project and negotiate on behalf of each of the parties but who do not have authority to enter into binding agreements.

24.1.2 Contractor shall cooperate with Department and all representatives of Department designated as described above.

ARTICLE 25. DEFAULT

25.1 Default of Contractor

25.1.1 The term "Event of Default" shall mean the occurrence of any one or more of the following events or conditions, following notice and opportunity to cure (if applicable) as specified in Section 25.1.2 and an election by Department to declare that an Event of Default has occurred in writing and given to Contractor and Surety:

(a) Contractor fails either (i) to promptly begin the Work under the Contract Documents or (ii) to prosecute the Work in accordance with the CPM/Payment Schedule; or

(b) Contractor fails to perform the Work in accordance with the Contract Documents, including conforming to applicable standards in constructing the Project, or refuses to remove and replace rejected materials or unacceptable Work; or

(c) Contractor discontinues the prosecution of the Work (exclusive of Work stoppage (i) due to termination by Department, (ii) due to and during the continuance of a Force Majeure event, the performance of any Reimbursable Site Work or a suspension by Department or (iii) to the extent permitted under Section 25.4); or

(d) Contractor fails to resume performance of Work which has been suspended or stopped, within a reasonable time after receipt of notice from Department to do so or (if applicable) after cessation of the event preventing performance; or

(e) Contractor or any Guarantor under the Completion Guaranty shall have become insolvent, or generally does not pay its debts as they become due, or admits in writing its inability to pay its debts or makes an assignment for the benefit of creditors; or

(f) Insolvency, receivership, reorganization or bankruptcy proceedings shall have been commenced (i) by Contractor or both FC and MKC (Delaware) (but not necessarily in the same proceeding or concurrently) or (ii) against Contractor or both FC and MKC (Delaware) (but not necessarily in the same proceeding or concurrently) and such case or cases shall not be contested by FC and MKC (Delaware) in good faith or shall remain undismissed and unstayed for a period of 90 Days; or

(g) Any representation or warranty made by Contractor in the Contract Documents or any certificate, schedule, instrument or other document delivered by Contractor pursuant to the Contract Documents, or any representation of warranty made by any Guarantor under the Completion Guaranty, shall have been materially false or misleading when made; or

(h) Contractor breaches any material agreement contained in the Contract Documents; or

(i) Contractor shall be in default under the Comprehensive Agreement; or

(j) Contractor shall have assigned or transferred the Contract Documents or any right or interest therein without Department's prior written consent, and any transfer of the right or practical ability to control the policies or decisions of Contractor, whether due to transfer of partnership or

membership interests, shares, beneficial interests or otherwise shall constitute an assignment or transfer prohibited under this subsection (j) without Department's prior written consent; or

(k) Contractor shall have failed, absent a valid dispute, to make payment when due for labor, equipment or materials in accordance with its agreements with Subcontractors and applicable law, or shall have materially failed to comply with any Laws, Regulations and Ordinances or failed reasonably to comply with the instructions of Department consistent with the Contract Documents.

25.1.2 Contractor and Surety shall be entitled to 10 Days notice and opportunity to cure any breach described in (a) through (d) and (h) through (k) above (excluding any such breach which by its nature cannot be cured); provided that (a) if such breach is capable of cure but by its nature cannot be cured within 10 Days, such additional period of time shall be allowed as may be reasonably necessary to cure the breach, provided Contractor or Surety or any Guarantor under the Completion Guaranty commences such cure within such 10-day period and thereafter diligently prosecutes such cure to completion; (b) in the case of an emergency Department shall have the right to shorten the 10-Day cure period by so specifying in the notice of breach; and (c) no cure period shall extend the Guaranteed Completion Date, the Scheduled Completion Date or the deadline for Final Acceptance, nor shall any cure period excuse, delay or extend Contractor's obligations to pay Liquidated Damages hereunder.

25.2 Remedies for Contractor Event of Default

25.2.1 Upon the occurrence of an Event of Default, Department's obligation to make payments to Contractor hereunder shall be suspended unless and until the Event of Default is cured.

25.2.2 Upon the occurrence of an Event of Default, Department may notify Contractor to discontinue all or part of the Work and may terminate this Contract. In such event, Department may appropriate any or all materials and equipment on the Site as may be suitable and acceptable and may (a) direct the Surety and/or any Guarantor to complete such portion of the Work or complete this Contract, (b) enter into an agreement for the completion of such portion of the Work or the completion of this Contract according to the terms and provisions thereof with another contractor (should the Surety or any Guarantor fail to comply with its obligations), the Surety or any Guarantor, or (c) use such other methods as it deems necessary for the completion of such portion of the Work or the completion of this Contract, including completion of the Work by Department. In the event that this Contract is terminated, Sections 26.2.3, 26.2.4, 26.2.5, 26.2.6, 26.2.7 shall apply and Contractor shall immediately deliver to Department all completed and partially completed Work Product (including that not yet paid for due to offset claims of Department). In the event that this Contract is terminated for grounds which are later determined not to justify a termination for default, such termination shall be deemed to constitute a termination for convenience.

25.2.3 Contractor and Surety shall not be relieved of liability for continuing Liquidated Damages on account of a breach or default by Contractor or by Department's declaration of an Event of Default, or by actions taken by Department under this Section 25.2.

25.2.4 All costs and charges incurred by Department, together with the cost of completing the Work, will be deducted from any moneys due or that may become due Contractor, the Surety or any Guarantor, subject to Department's good faith efforts to mitigate damages. Subject to Sections 25.3.1 and 25.3.2, if such expense exceeds the sum which would be available from such moneys, then Contractor, the Surety and each Guarantor shall be jointly and severally liable and shall pay to Department the amount of such excess.

25.2.5 Each right and remedy of Department hereunder shall be cumulative and shall be in addition to every other right or remedy provided herein, and the exercise or beginning of the exercise by Department of any one or more of any of such rights or remedies shall not preclude the simultaneous or later exercise by the State of any or all other such rights or remedies.

25.3 Certain Limitations on Department Remedies

25.3.1 Subject to the limitations in Section 25.7, Contractor's liability to Department for damages resulting from breach of this Contract shall be limited to all those costs reasonably incurred by Department or any party acting on Department's behalf in completing or correcting the Work and repairing any damage to the Project or other property of any State Indemnitee or any Association Indemnitee caused thereby including Department's costs of Oversight Services in connection therewith. This limitation of liability shall not apply to liabilities incurred by Contractor arising out of its obligation to indemnify, defend and hold harmless each State Indemnitee and Association Indemnitee from third party Claims under Section 21.1 or to the extent covered by insurance required hereunder.

25.3.2 If the Event of Default consists solely of Contractor's actual or projected failure to achieve Substantial Completion by the Guaranteed Completion Date, Department shall have no right to terminate this Contract under Section 25.2.2 until such time, if any, as the accumulated and/or projected Liquidated Damages set forth in Section 25.6 exceed or would exceed $8,500,000, whereupon Department shall be free to terminate this Contract under Section 25.2.2. In other words, even if no actual Liquidated Damages have accrued or are payable, Department shall have a right to terminate under this Section 25.3.2 if the projected Liquidated Damages would exceed $8,500,000. In the event Department terminates this Contract under Section 25.2.2 solely by reason of Contractor's actual or projected failure to achieve Substantial Completion by the Guaranteed Completion Date, then the damages recoverable by Department shall be limited to the lesser of (a) the amount of such damages or (b) the result of subtracting the total Liquidated Damages accumulated and paid pursuant to Section 25.6 from $25,500,000.

25.3.3 Where this Contract provides an expressly stated remedy, such expressly stated remedy shall be exclusive of any inconsistent, additive or alternative extra-contractual remedies which might otherwise have been available at law or equity, except for (a) any common law or statutory right to indemnity or contribution regarding liability of potentially responsible parties for Pre-Existing Hazardous Substances, where the liability is not otherwise the subject of an indemnity pursuant to Section 21.2, (b) any claim or cause of action for fraud or intentional misrepresentation and (c) any subject matter on which no express contractual remedy is provided. The parties may resort to any remedy available at law or equity with respect to the foregoing exceptions.

25.4 Failure to Deliver Payment; Unavailability of Funds

Contractor agrees that Department shall not be considered in breach of this Contract as the result of any failure or refusal by Trustee to provide funds in accordance with the Indenture or the unavailability of funds under the Indenture.

25.4.1 In the event that Contractor fails to receive a payment in the amount approved under Section 14.2.4 by the date specified for payment in Section 14.2.4, Contractor may request written assurances from Department that payment will be made. Unless Contractor receives reasonably acceptable assurances from Department within five Business Days after delivery of such request to Department, Contractor shall have the right to suspend the Work for such period, provided that Contractor shall have provided a separate written notice to Department and Trustee stating that

Contractor is not satisfied with the assurances and describing the reasons for such dissatisfaction, which notice shall have been delivered at least three Business Days before suspending the Work. Notwithstanding the foregoing, Contractor shall have no right to request or receive assurance of payment, or to stop Work, where Department has suspended payment in accordance with Section 25.2.1.

25.4.2 In the event the Contingency does not contain sufficient funds to pay any amounts payable therefrom (including any automatic transfers from the Fixed Price Amount portion of the budget into the Contingency portion of the budget), each party may suspend those portions of its obligations under this Contract payable from the Contingency to the extent of the insufficient funds, provided that the party shall have delivered prior written notice to such effect to the other party and Trustee.

25.4.3 In the event the Fixed Price Amount portion of the budget contains insufficient funds to pay any amounts payable from the Fixed Price Amount because of automatic transfers from the Fixed Price Amount portion of the budget into the Contingency portion of the budget, Contractor may suspend those portions of the Work payable from the Fixed Price Amount to the extent of the insufficient funds, provided that Contractor shall have delivered prior written notice to such effect to Department and Trustee.

25.5 Limitation on Contractor Remedies

25.5.1 Except as otherwise provided in Section 25.4, and in all events subject to Section 17.9 of the Comprehensive Agreement, in the event of any alleged breach of this Contract by Department, Contractor shall provide Department written notice describing the alleged breach and 30 Days opportunity to cure the same, as a condition precedent to exercising any remedies to which Contractor is entitled at law or in equity with respect thereto.

25.5.2 In no event shall Contractor have any right to unilaterally terminate this Contract after the Financial Closing Date, notwithstanding any default by Department. The foregoing does not limit Contractor's right to suspend Work to the extent provided in Section 25.4.

25.6 Liquidated Damages

Contractor, Department and Association have agreed to liquidate damages incurred by Department and Association respectively with respect to any delay in achieving Substantial Completion and Final Acceptance by the deadlines contained in Section 17.2.1. Certain damages are allocable to Department's administrative expenses associated with delay, and the remainder is allocable to damages which will be incurred by Association as the result of a delay (collectively, the "Liquidated Damages"). Contractor acknowledges and agrees that the Liquidated Damages are intended to constitute compensation solely for Contractor's failure to meet the completion deadlines, and shall not excuse Contractor from liability for any other breach of Contract requirements, including any failure of the Work to conform to applicable requirements. If an Event of Default consists solely of Contractor's failure to achieve Substantial Completion by the Guaranteed Completion Date, then the damages recoverable by Department shall be limited as provided in Section 25.3.2.

25.6.1 Amount

25.6.1.1 Contractor agrees to pay Department the amount of $500 per day up to a maximum of $500,000 as deemed compensation to Department for damages which it incurs due to delay in completion, for each day after the Guaranteed Completion Date and through the date of Substantial

Completion, and for each day after the required date for Final Acceptance and through the Final Acceptance Date.

25.6.1.2 Contractor shall in addition pay Department the amount of $25,000 per day up to a maximum of $25,000,000, which amount will be forwarded by Department to Trustee on behalf of Association, and which shall constitute deemed compensation to Association for damages which it incurs due to delay in completion, for each day after the Guaranteed Completion Date and through the date of Substantial Completion. Association and Trustee are intended third party beneficiaries of Contractor's obligation under this Section 25.6.1.2.

25.6.1.3 It is understood and agreed by Contractor that any Liquidated Damages payable in accordance with this Section 25.6 are in the nature of liquidated damages and not a penalty and that such sums are reasonable under the circumstances existing as of the date of execution and delivery of this Contract. Contractor further acknowledges and agrees that Liquidated Damages may be owing even though no Event of Default has occurred or been declared.

25.6.2 Payment Terms

If Department determines that Liquidated Damages are owing, Department shall give written notice thereof to Contractor with a copy of such notice to Association and Trustee. Thereafter, each Draw Request and Certificate under Section 14.2.2 shall include a calculation of Liquidated Damages occurring since the prior request (or since the notice if there has been no prior request) and that amount will automatically be due on or prior to submission of such request if not paid by offset under Section 14.4.

25.7 Limitation on Consequential Damages

Except as expressly provided in this Contract to the contrary, neither party shall be liable to the other for indirect, incidental or consequential damages of any nature, whether arising in contract, tort (including negligence) or other legal theory. The foregoing limitation shall not, however, in any manner:

(a) prejudice Department's right to recover Liquidated Damages from Contractor as provided herein;

(b) limit Contractor's liability for any type of damage arising out of Contractor's obligation to indemnify, defend and hold each State Indemnitee and Association Indemnitee harmless from third party Claims under Section 21.1 and elsewhere in this Contract;

(c) limit Contractor's liability for any type of damage to the extent covered by insurance required hereunder; and

(d) limit Contractor's liability for any type of damage to the extent required to be covered by third party warranties required to be obtained by Contractor hereunder if Contractor fails to obtain such warranties.

ARTICLE 26. TERMINATION FOR CONVENIENCE

26.1 Notice of Termination

Department may terminate this Contract and the performance of the Work by Contractor at any time after the first to occur of the Financial Closing Date or December 31, 1998 and prior to the date of Substantial Completion if Department determines, in its sole discretion, that a termination is in its best interest. Department shall notify Contractor of the decision to terminate by delivering to Contractor a written Notice of Termination specifying the extent of termination and its effective date. Termination of this Contract shall not relieve the Surety of its obligation for any just claims arising out of or relating to the Work.

26.2 Contractor's Responsibilities After Receipt of Notice of Termination

After receipt of a Notice of Termination, and except as directed by Department, Contractor shall immediately proceed as follows, regardless of any delay in determining or adjusting any amounts due under this Article 26:

26.2.1 Stop Work as specified in the notice;

26.2.2 Enter into no further Subcontracts and place no further orders for materials, services or facilities, except as necessary to complete the continued portion of the Work, if any, or for mitigation of damages;

26.2.3 Unless instructed otherwise by Department, terminate all Subcontracts to the extent they relate to the Work terminated and except to the extent that continuation of the Subcontract is necessary in order to mitigate damages;

26.2.4 Assign to Department or its designee in the manner, at the times, and to the extent directed by Department, all of the right, title, and interest of Contractor under the Subcontracts so terminated, in which case Department will have the right, in its sole discretion, to accept performance, settle or pay any or all claims under or arising out of the termination of such Subcontracts;

26.2.5 Settle outstanding liabilities and claims arising out of such termination of Subcontracts, with the approval or ratification of Department, to the extent it may require, which approval or ratification shall be final;

26.2.6 Transfer and deliver to Department or its designee, as directed by Department, (a) possession and control of the Project, and (b) all right, title and interest of Contractor in and to (i) the Work in process, completed Work, supplies and other materials produced or acquired for the Work terminated, (ii) the Construction Documents and all other completed or partially completed drawings (including plans, elevations, sections, details and diagrams), specifications, records, reports, books, samples, information and other Work Product that would have been required to be furnished to Department if the Work had been completed, and (iii) all Intellectual Property;

26.2.7 Complete performance in accordance with the Contract Documents of all Work not terminated;

26.2.8 Take all action that may be necessary, or that Department may direct, for the protection and preservation of the property related to the Contract Documents that is in the possession of Contractor and in which Department has or may acquire an interest; and

26.2.9 As authorized by Department, use its best efforts to sell at reasonable prices any property of the types referred to in Section 26.2.6; provided, however, that Contractor (a) shall not take any such action with respect to any items for which title has previously transferred to Department, (b) is not required to extend credit to any purchaser, and (c) may acquire the property itself, under the conditions prescribed and at prices approved by Department. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by Department under the Contract Documents or paid in any other manner directed by Department.

26.3 Inventory

Contractor shall submit to Department a list of termination inventory not previously disposed of and excluding items authorized for disposition by Department; and within 30 Days of receipt of the list, Contractor shall deliver such inventory to Department and Department shall accept title to such inventory as appropriate.

26.4 Settlement Proposal

After termination, Contractor shall submit a final termination settlement proposal to Department in the form and with the certification prescribed by Department. Contractor shall submit the proposal promptly, but no later than 60 Days from the effective date of termination unless Contractor has requested a time extension in writing within such 60-day period and Department has agreed in writing to allow such an extension.

26.5 Amount of Termination Settlement

Contractor and Department may agree, as provided in Section 26.4, upon the whole or any part of the amount or amounts to be paid to Contractor by reason of the termination of Work pursuant to this Article 26. Such negotiated settlement may include an allowance for profit solely on Work which has been completed as of the termination date. Such agreed amount or amounts payable for the terminated Work, exclusive of settlement costs, shall not exceed the total Contract Price as reduced by the Contract Price of Work not terminated. Upon determination of the settlement amount this Contract will be amended accordingly, and Contractor will be paid the agreed amount as described in this Section 26.5. Nothing in Section 26.6, prescribing the amount to be paid to Contractor in the event that Contractor and Department fail to agree upon the whole amount to be paid to Contractor by reason of the termination of Work pursuant to this Article 26, shall be deemed to limit, restrict or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to Contractor pursuant to this Section 26.5. Department's execution and delivery of any settlement agreement shall not be deemed to affect any of its rights with respect to compliance of the completed Work with all applicable Contract requirements, any of its rights under the Performance Bonds or the Completion Guaranty or any of its rights against Subcontractors. Upon determination of the amount of the termination payment, this Contract shall be amended to reflect the agreed termination payment, Contractor shall be paid the agreed amount, subject to the limitations contained herein on Department's obligations to make payments, and the Contract Price shall be adjusted to deduct the portion thereof which is allocable to the terminated Work.

26.6 No Agreement as to Amount of Claim

In the event of failure of Contractor and Department to agree upon the amount to be paid Contractor by reason of the termination of Work pursuant to this Article 26, the amount payable (exclusive of interest charges) shall be determined in accordance with the following:

26.6.1 In the event of a termination prior to the Financial Closing Date Department will pay Contractor the lesser of amounts previously approved for payment for Work performed (excluding any Retainage and any offsets) or $1,500,000.

26.6.2 In the event of a termination occurring on or after the Financial Closing Date, the amount to be paid to Contractor for Work performed prior to the termination date shall be determined based on the CPM/Payment Schedule. In such event all invoices previously submitted, Change Orders requested and claims submitted shall be processed in accordance with the terms hereof (including payment of any Retainage). In addition, Contractor shall be paid its reasonable costs of termination of Subcontracts and otherwise winding down the terminated Work. However, the total amount to be paid to Contractor, exclusive of costs described in the prior sentence, may not exceed the total Contract Price less the amount of payments previously made. Furthermore, in the event that any refund is payable with respect to insurance premiums, deposits or similar items which were previously passed through to Department by Contractor, such refund shall be paid directly to Department or otherwise credited to Department.

26.6.3 Except for normal spoilage, and except to the extent that Department will have otherwise expressly assumed the risk of loss, there will be excluded from the amounts payable to Contractor under Section 26.6.1 or 26.6.2, the fair value, as determined by Department, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to Department, or to a buyer pursuant to Section 26.2.9.

26.7 Reduction in Amount of Claim

The amount otherwise due Contractor under this Article 26 shall be reduced by (a) the amount of any claim which Department may have against Contractor in connection with this Contract provided that Department has delivered to Contractor written notice thereof setting forth the specific grounds therefor and (b) the agreed price for, or the proceeds of sale of, materials, supplies or other things acquired by Contractor or sold, pursuant to the provisions of this Article 26, and not otherwise recovered by or credited to Department.

26.8 Payment

Department may from time to time, under such terms and conditions as it may prescribe and in its sole discretion, make partial payments on account against costs incurred by Contractor in connection with the terminated portion of this Contract, whenever in the opinion of Department the aggregate of such payments shall be within the amount to which Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this Article 26, such excess shall be payable by Contractor to Department upon demand together with interest at a variable rate per annum equal to the reference rate announced by Bank of America, NT&SA from time to time, plus 1%.

26.9 Inclusion in Subcontracts

Contractor shall insert in all Subcontracts that the Subcontractor shall stop Work on the date of and to the extent specified in a Notice of Termination from Department and shall require that Subcontractors insert the same provision in each Subcontract at all tiers. Contractor shall communicate, immediately upon receipt thereof, any Notice of Termination issued by Department to all affected Subcontractors.

26.10 No Consequential Damages

In the event of a termination for convenience under this Article 26, Contractor acknowledges and agrees that it shall not be entitled to any compensation in excess of the value of the Work performed plus its settlement costs (determined as provided in Section 26.6.1 or 26.6.2). Under no circumstances shall Contractor or any Subcontractor be entitled to anticipatory or unearned profits, unabsorbed overhead, opportunity costs or consequential or other damages as a result of a termination for convenience under this Article 26. The payment to Contractor determined in accordance with this Article 26 constitutes Contractor's exclusive remedy for a termination hereunder.

26.11 No Waiver

Anything contained in this Contract to the contrary notwithstanding, a termination under this Article 26 shall not waive any right or claim to damages which Department may have and Department may pursue any cause of action which it may have by law or under this Contract.

26.12 Dispute Resolution

The failure of the parties to agree on amounts due under Article 26, shall be a dispute to be resolved in accordance with Article 27.

ARTICLE 27. DISPUTE RESOLUTION

Disputes shall be resolved solely in accordance with Section 105.16 of the Standard Specifications. At all times during the term hereof, including during the course of, and notwithstanding the existence of, any dispute, Contractor shall perform as directed by Department, in a diligent manner and without delay, shall abide by Department's decision or order, and shall comply with all applicable provisions of the Contract Documents.

ARTICLE 28. MISCELLANEOUS PROVISIONS

28.1 Incorporation of Miscellaneous Provisions in Comprehensive Agreement

The following provisions in the Comprehensive Agreement are applicable to the Contract Documents, provided that all references therein to the "Agreement" shall instead be deemed references to the Contract Documents unless the context requires otherwise:

Section 20.1 (Assignment)

Section 20.2 (No Gift or Dedication)

Section 20.3 (Notices), provided that copies of any notices of default shall also be sent to Trustee at the following address:

Crestar Bank
919 East Main Street
Richmond, Virginia 23219
Attn: Ms. Kelly A. Pickerel
Fax: (804) 782-7855

with a copy to:

Michael W. Graff, Jr., Esq.
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Section 20.4 (Binding Effect)

Section 20.5 (Relationship of Parties)

Section 20.6 (No Third Party Beneficiaries), except as otherwise provided or contemplated for the Association and/or Association Indemnitees in Sections 11.3.1, 12.7(d), 14.2.2, 14.4, 19.3.3.3, 21.1, 22.4, 22.5.1(vi)(B) (and the scope of insurance coverages provided by the additional insured endorsement) and 25.6.1.2

Section 20.7 (Waiver)

Section 20.9 (Governing Law and Venue)

Section 20.11 (Survival)

Section 20.13(a) through (e) (Construction and Interpretation of Agreement)

Section 20.14 (Counterparts)

28.2 Entire Agreement; Amendment

28.2.1 THIS CONTRACT AND THE OTHER PROJECT AGREEMENTS CONSTITUTE THE ENTIRE AND EXCLUSIVE AGREEMENT BETWEEN THE PARTIES RELATING TO THE SPECIFIC MATTERS COVERED HEREIN AND THEREIN. ALL PRIOR OR CONTEMPORANEOUS VERBAL OR WRITTEN AGREEMENTS, UNDERSTANDINGS, REPRESENTATIONS AND/OR PRACTICES RELATIVE TO THE FOREGOING ARE HEREBY SUPERSEDED, REVOKED AND RENDERED INEFFECTIVE FOR ANY PURPOSE. THIS CONTRACT MAY BE ALTERED, AMENDED OR REVOKED ONLY BY AN INSTRUMENT IN WRITING SIGNED BY EACH PARTY HERETO, OR ITS PERMITTED SUCCESSOR OR ASSIGNEE. NO VERBAL AGREEMENT OR IMPLIED COVENANT SHALL BE HELD TO VARY THE TERMS HEREOF, ANY STATUTE, LAW OR CUSTOM TO THE CONTRARY NOTWITHSTANDING.

28.2.2 Notwithstanding Section 28.2.1, where this Contract confers specific rights upon Association under the provisions referenced in Section 28.1 in connection with Section 20.6 of the Comprehensive Agreement, such provisions cannot be amended without Association's prior written consent. In addition, Trustee's consent is required for amendments to this Contract which would (a) increase the Contract Price or the Contingency (except through the Change Order provisions of this Contract), (b) extend the Guaranteed Completion Date (except through the excusable delay provisions of this Contract), (c) require the consent of Association, (d) reduce the number of lanes of the Project, (e) fundamentally change the location of the termini of the Project, (f) fundamentally change the location of the toll facilities, (g) eliminate any interchange or (h) fundamentally alter the character of the Project as a limited access, grade-separated highway.

28.2.3 This Contract and the other Project Agreements attempt to set forth in full all requirements applicable under the PPTA as to the study, planning, design, acquisition, development, construction, operation, maintenance, repair, management and financing of the Project and attempt to define in full the rights and responsibilities of each party in connection therewith. To the extent requirements and rights and responsibilities have not been addressed in this Contract and the other Project Agreements, the parties agree to carry out their respective responsibilities in the spirit of cooperation contemplated by the PPTA, recognizing that they may not have defined in a sufficient detail or anticipated fully all activities necessary for the full implementation of the Project.

28.2.4 If any provisions of this Contract are rendered obsolete or ineffective in serving their purpose by change in law, passage of time, financing requirements or other future events or circumstances, the parties agree to negotiate in good faith appropriate amendments to or replacements of such provisions in order to restore and carry out the original purposes thereof to the extent practicable; provided, however, that neither party is obligated to agree to any amendment or replacement which would reduce its rights or enlarge its responsibilities under this Contract in any material respect.

28.3 Explanations; Omissions, Misdescriptions, Inclusions without Limitation

Should it appear that the Work to be done or any of the matters relative thereto is not sufficiently detailed or explained in the Contract Documents, Contractor shall apply to Department in writing for such further written explanations as may be necessary and shall conform to the explanation provided. Contractor shall promptly notify Department of all errors, omissions, inconsistencies or other defects (including inaccuracies and inconsistencies) which it may discover in the Contract Documents, provide

written recommendations regarding changes or corrections to resolve any such error, omission or defect, and obtain Department's approval before proceeding with the design Work affected thereby. Omission from the Scope of Work or the misdescription of details of Work which are necessary to carry out the intent of the Contract Documents, or which are customarily performed, shall not relieve Contractor from performing such omitted Work (no matter how extensive) or misdescribed details of the Work and they shall be performed as if fully and correctly set forth and described in the Scope of Work, without entitlement to a Change Order hereunder. The words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation."

28.4 Computation of Periods

If the date to perform any act or give any notice specified in the Contract Documents (including the last date for performance or provision of notice "within" a specified time period) falls on a non-Business Day, such act or notice may be timely performed on the next succeeding day which is a Business Day. Notwithstanding the foregoing, requirements contained in the Contract Documents relating to actions to be taken in the event of an emergency, requirements contained in Section 5.3.5, and other requirements for which it is clear that performance is intended to occur on a non-Business Day, shall be performed as specified, even though the date in question may fall on a non-Business Day.

28.5 Approvals

In all cases where approvals, consents or determinations are required to be provided hereunder, such approvals or consents shall not be withheld unreasonably and such determinations shall be made reasonably except in cases where a different standard (such as, by way of example only, sole discretion) is specified. In cases where sole discretion is specified for an approval, consent, determination or other decision, the decision shall not be subject to dispute resolution hereunder.

28.6 Payment of Tolls

Contractor acknowledges and agrees that individuals working on the Project for Contractor will be required to pay tolls when using toll roads, including tolls for use of the Project after the Opening Date. Contractor shall not be entitled to reimbursement for any such tolls.

28.7 Correspondence

Contractor shall copy Department on all written correspondence pertaining to this Contract between Contractor and any Person other than Contractor's Subcontractors, consultants and attorneys.

28.8 Standard Specifications

Cross-references to provisions of the Standard Specifications which are not applicable to this Contract because they have been superseded by other provisions of the Contract Documents shall be deemed references to the Contract Document provisions which have superseded the referenced Standard Specifications provisions.

"Department"

VIRGINIA DEPARTMENT OF TRANSPORTATION,
a department of the Commonwealth of Virginia

By: _____
David R. Gehr,
Commonwealth Transportation Commissioner

Fiscal Review:

By: _____
Gregory A. Whirley, Sr.,
Controller

Legal Review:

By: _____
James F. Hayes, Esq.,
Senior Assistant Attorney General

"Contractor"

FD/MK LIMITED LIABILITY COMPANY,
a Delaware limited liability company

By: _____
James R. Carroll,
President

DEFINITIONS

DEFINITIONS

Account or **Accounts** means any one or more of the accounts from time to time created in any of the Funds established by the Indenture.

Accountant means any nationally recognized certified public accountant or firm of certified public accountants or accounting corporation of recognized experience and qualifications, selected by the Association, and may be the accountant or firm of accountants that regularly audits the books of the Association.

Accountant's Certificate means a certificate or opinion signed by the Accountant.

Accreted Value for Bonds of any Series shall have the meaning set forth in the Supplemental Indenture authorizing the issuance of such Series.

Aggregate Debt Service means, for any Fiscal Year or other 12-month period, as of the date of calculation, the sum of the amounts of Debt Service for such Fiscal Year or other 12-month period. In determining Aggregate Debt Service on Second Tier Subordinate Bonds for any Fiscal Year or other 12-month period, such Aggregate Debt Service shall be the sum of monthly payments during such Fiscal Year or other 12-month period assuming that such monthly payments are calculated to result in full amortization in equal, consecutive combined principal and interest payments at an interest rate equal to the higher of the actual stated interest rate or the maximum interest rate for a term equal to the remaining term of the applicable Second Tier Subordinate Bonds assuming the original term was 30 years.

Agreement Date, for purposes of the Comprehensive Agreement, means the date written on the cover page of the Comprehensive Agreement, and for purposes of the Design-Build Contract, means the date written on the cover page of the Design-Build Contract.

Amortized Value means the value of an Investment Security calculated by adding the amount of the premium paid upon acquisition to the par value of the Investment Security or deducting the amount of the discount received upon acquisition from the par value of the Investment Security, as the case may be, after such premium or discount has been amortized according to Generally Accepted Accounting Principles for the number of days since the acquisition of the Investment Security.

Annual Budget means the operating plan and budget for each Fiscal Year of the Association prepared by Association pursuant to Section 8.5(a) of the Comprehensive Agreement and Section 717 of the Master Indenture and

approved by Department pursuant to Section 8.5(b) of the Comprehensive Agreement and Section 711 of the Master Indenture.

Association means Pocahontas Parkway Association, a Virginia nonstock, nonprofit corporation, and its permitted successors and assigns, and means the "Issuer" in the context of the Indenture.

Association Default means any of the events listed in Section 17.4 of the Comprehensive Agreement.

Association Indemnitee means and includes the Association and all of its affiliates and subsidiaries, and each of their respective members, partners, managers, directors, officers, employees, authorized agents and authorized representatives.

Association Party means and includes the Association and any director, officer, employee, agent, contractor (other than Department), subcontractor (other than Department) at any tier or any representative of the Association.

Authenticating Agent means any bank or trust company or national or state banking association designated to authenticate the Bonds of any Series on behalf of the Issuer or the Trustee, as provided by any Supplemental Indenture, and its successor or successors.

Authorized Association Representative or Authorized Issuer Representative means any person designated to act on behalf of the Association or the Issuer by a certificate signed by its President or any Vice President and filed with Department, the Trustee and FD/MK.

Authorized Department Representative means any person designated to act on behalf of Department by a certificate signed by the Commissioner and filed with FD/MK, the Trustee and the Association.

Authorized FD/MK Representative means any person designated to act on behalf of FD/MK by a certificate signed by its President or any Vice President and filed with Department, the Trustee and the Association.

Available Construction Fund Amount means the amount of funds in the Construction Fund currently available to pay Costs of the Project, which amount shall equal at any given time of calculation (a) the funds then remaining in the Construction Fund, plus (b) interest and profits earned and to be earned, but not yet credited to the Construction Fund, under the investment agreement or agreements under which funds in the Construction Fund are invested, excluding interest and profits earned and to be earned and required to be, but not yet, credited to the Series 1998D Bond Proceeds Account, to the Rebate Fund, to any Account for the purpose of paying interest on any Series of Bonds or to the Retainage Account, minus (c) all amounts deposited in or credited to any

Account of the Construction Fund for the purpose of paying interest on any Series of Bonds, minus (d) all funds in the Series 1998D Bond Proceeds Account reserved for payment of costs of promoting, marketing and advertising the Project and its opening to the public incurred prior to the commencement of revenue operations on the Project, minus (e) interest and profits deposited in or credited to the Retainage Account and the Series 1998D Bond Proceeds Account.

AVI means automatic vehicle identification equipment used as part of ETTM Equipment.

Betterment means upgrading or expanding the capacity of a Utility facility being relocated that is not attributable to construction of the Project or that is made solely for the benefit of and at the election of the Utility Owner. The primary aim of Betterment is to make the Utility facility more useful, functional, durable, efficient or of greater capacity. However, the term "Betterment" shall not include modifications to a Utility facility which enable achievement of greater usefulness, functionality, durability, efficiency or capacity at costs equal to or less than the costs of a "like-for-like" replacement or relocation.

Board means the board of directors of the Association, or any successor in function.

Bond or **Bonds** means any bond or bonds, as the case may be, authenticated and delivered under and pursuant to the Indenture, including any Tax-Exempt Bond or Bonds, and the SIB Bond and the Contractor Bond.

Bond Counsel means Hunton & Williams or any other attorney or firm of attorneys, selected by the Issuer and acceptable to the Trustee and Department, whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

Bond Owner, Owner of Bonds or **Owner** means, when used with respect to Bonds, the registered owner of any Bond.

Bridge Foundation Work means that portion of the bridge substructures for all Project bridges from the top of the footing down into the support material for the structure. This work shall include all materials, labor, equipment and incidentals necessary to complete the work. It includes, but is not limited to, structure excavation, form/false work, hydraulic cement concrete, reinforcing steel, piles and drill shafts with their respective associated testing.

Business Day means any Day other than a Saturday, Sunday or other day on which The New York Stock Exchange or banks are authorized or required to close in New York, New York or Richmond, Virginia.

Capitalized Interest Account means any Account into which capitalized interest with respect to a Series of Bonds is to be deposited as provided for in a Supplemental Indenture.

Change Order means a written amendment to the terms and conditions of the Contract Documents issued in accordance with Article 19 of the Design-Build Contract.

Claims means any and all claims, disputes, disagreements, causes of action, demands, suits, proceedings, damages, injuries, liabilities, obligations, losses, costs and expenses.

Code means the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations proposed or in effect with respect thereto.

Commissioner means the Commonwealth Transportation Commissioner or any successor in function.

Competitive Transportation Facilities means any State Highway, expressway or freeway crossing of the James River (a) which is within three miles of the centerline of the Project's bridge crossing of the James River, (b) which is first placed into service after the Agreement Date and (c) the operation of which could reasonably be foreseen to have a materially adverse impact on the ability of Association to cover Debt Service and to observe its covenants under the Indenture.

Completion Bonds means Bonds issued pursuant to Section 302.3(a) of the Master Indenture.

Completion Guaranty means the Guaranty of Performance and Completion issued by FC, MKC (Delaware) and MKC (Ohio) on the Agreement Date in the form of Exhibit D to the Comprehensive Agreement, jointly and severally guaranteeing payment, performance and completion of all of FD/MK's obligations under the Comprehensive Agreement, the Project Financing Agreement and the Design-Build Contract.

Compliance Order means any written order of Department, issued after the Final Acceptance Date, which directs the Association to undertake certain improvements to the Project (a) to conform to changes in safety standards or methodologies agreed to or adopted by Department for similar portions of State Highways, or (b) to correct a specific safety condition affecting the Project which Department has determined to exist by investigation or analysis.

Compounding Date for Bonds of any Series shall have the meaning set forth in the Supplemental Indenture authorizing the issuance of such Series.

Comprehensive Agreement means the Comprehensive Agreement to Develop and Operate Route 895 Connector between FD/MK and Department dated as of June 3, 1998, and all exhibits thereto, as supplemented or amended from time to time.

Conformity means compliance with the most stringent customary manufacturing and construction tolerances where working tolerances are not specified. Where working tolerances are specified, conformity means compliance with the most stringent of such tolerances.

Construction Documents means all Shop Drawings and Working Drawings, catalog cuts and samples necessary for construction of the Project in accordance with the Contract Documents and to inspect that construction.

Construction Fund means the Route 895 Connector Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture, and includes any separate Accounts or Subaccounts established by the terms of any Supplemental Indenture or any agreement pursuant thereto.

Construction Segment means each or any segment of the Project which Department and FD/MK designate pursuant to Article 13 of the Design-Build Contract for the purpose of scheduling construction.

Construction Traffic Management Plan means the plan for traffic management submitted and approved in accordance with Section 9.1 of the Design-Build Contract.

Consultant means any Person at the time retained by or on behalf of the Association (or, to the extent specifically provided in the Indenture or in any Supplemental Indenture, by or on behalf of the Trustee or Department) for the benefit of the Bond Owners to carry out the duties imposed by or pursuant to the Indenture or a Supplemental Indenture, which Person shall be experienced and have a national and favorable reputation in the matters for which such Person is so employed.

Consulting Engineer means any Consultant with expertise in engineering. The Consulting Engineer may be an employee of Department and such employee need not have a national reputation.

Contingency means the amount available for payment of certain Costs of the Project in excess of the Contract Price or Oversight Budget, as more specifically described in Section 14.3 of the Design-Build Contract.

Continuing Disclosure Agreement means, collectively, the Continuing Disclosure Agreement between the Association and the Trustee and the Continuing Disclosure Agreement between FD/MK and the Trustee, each dated as of July 1, 1998.

Contract Documents means the Design-Build Contract, including all appendices, the Scope of Work, the Standard Specifications, the Preliminary Engineering (subject to Contractor's obligation to provide the Plans and Specifications free of any errors, omissions, inconsistencies and other defects which may be contained in the Preliminary Engineering) and the Plans and Specifications, including all amendments to any of the foregoing and all Change Orders issued.

Contractor means FD/MK.

Contractor Bond means the Series 1998E Bond issued by the Association to FD/MK under the Indenture and in accordance with the Contractor Loan Agreement on the Financial Closing Date and evidencing advances, if any, under the Contractor Loan Agreement, and any and all amendments and supplements thereto.

Contractor Claim means a separate demand by Contractor for (a) a time extension which is disputed by Department, or (b) payment of money or damages arising from work done by or on behalf of Contractor in connection with the Design-Build Contract which is disputed by Department. A Contractor Claim will cease to be a Contractor Claim upon resolution thereof, including resolution by withdrawal or release thereof or delivery of a Change Order or Design-Build Contract amendment signed by all parties.

Contractor Bond Draw Request means a draw request from the Trustee to FD/MK on the Draw Request and Certificate form attached as Exhibit 3 to the Master Indenture.

Contractor Loan Agreement means the Loan Agreement among FD/MK the Association in the form of Exhibit I to the Comprehensive Agreement, and any and all amendments and supplements thereto.

Contractor Party means and includes Contractor, any Related Party and any member company, manager, partner, director, officer, employee, agent, contractor (other than Department), subcontractor (other than Department) at any tier or any representative of Contractor or any Related Party.

Contract Price shall have the meaning set forth in Section 14.1.1 of the Design-Build Contract.

Costs of the Project means the following (provided, however, that if such costs are to be paid out of the proceeds of Tax-Exempt Bonds, "Costs of the Project" shall include only those costs permitted by the Code and which are in compliance with Section 706 of the Indenture):

(a) all amounts payable under the Design-Build Contract and all other contractors' fees and charges, the cost of labor, services, materials and

supplies used or furnished in site improvement and construction, training and testing costs, the cost of purchasing and installing machinery, equipment, facilities, rolling stock and ancillary items, and the cost of utility services;

(b) the cost of acquiring by purchase, and the amount of any deposit in court or award or final judgment in, or any settlement or compromise of, any proceeding to acquire by eminent domain, such lands, property, property rights, rights of way, easements, franchises and other interests as may be deemed necessary or convenient, options and partial payments thereon, the cost of demolishing or removing or relocating any buildings or structures or land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the amount of any incidental or consequent damages and the amount of any legal costs associated with such acquisition;

(c) the costs of preparing surveys, cost estimates, appraisals, plans and specifications (including any preliminary study or planning or any aspect thereof), traffic revenue studies fees for architectural, engineering, supervisory and consulting services, planning and development costs, the costs of obtaining governmental or regulatory permits, licenses, franchises and approvals, and any other fees or expenses necessary to establishing feasibility or practicability;

(d) Department's costs of services described in Sections 10.2(b) and (c) of the Comprehensive Agreement.

(e) Operating Expenses and amounts required to be deposited to the Renewal and Replacement Fund;

(f) to the extent not paid by the contractor, premiums of all insurance and surety and payment bonds required to be maintained, all claims and expenses relating to injury and damage, and casualty and liability insurance premiums in connection with insurance against loss from such claims;

(g) all federal, state and local taxes and payments in lieu of taxes legally required, or deemed advisable by the Issuer;

(h) interest to accrue on the Bonds during design and construction of the Project plus the time period thereafter, if any, covered by funds on deposit in the Capitalized Interest Account under the Indenture, and interest accrued during design and construction of the Project on other obligations of the Issuer to finance Costs of the Project;

(i) to the extent provided by Supplemental Indenture, any amount otherwise required to pay principal or Redemption Price of any Bonds;

(j) any amount required to fund or maintain the Debt Service Reserve Fund;

(k) repayment of all temporary borrowings incurred by or on behalf of, or advances made by or on behalf of, the Issuer in connection with the Project;

(l) Costs of Issuance, to the extent not otherwise described in this definition;

(m) all items of expense relating to any guarantee, bond insurance policy or Related Financial Transaction, to the extent not otherwise described in this definition;

(n) all amounts payable by Department or the Association under the Design-Build Contract or any other contract, agreement or other arrangement relating to the acquisition, design, construction and equipping of the Project; and

(o) all other costs and expenses relating to the acquisition, design, construction and equipping of the Project, including, but not limited to, costs of environmental mitigation and remediation.

Notwithstanding the foregoing, Costs of the Project shall not include any interest on debt (except as provided otherwise in subsection (h) above) or repayment of principal in respect of debt, returns on or of capital, costs funded from Reserve Accounts or Current Expenses. Costs of the Project shall be reduced by an amount equal to the sum of (i) the aggregate amount of grants of cash and (ii) the costs of goods and/or services in kind provided to Operator and used by Operator to pay Costs of the Project and which Operator has no legal obligation to repay. Costs of the Project also shall be reduced by the amount of any insurance proceeds, judgments and awards, including but not limited to condemnation awards, Operator receives on account of or in connection with previously incurred Costs of the Project.

Costs of Issuance means the items of expense relating to the authorization, sale and issuance of Bonds, which items of expense may include, without limitation: travel expenses; printing costs; costs of reproducing documents; computer fees and expenses; filing and recording fees; initial fees and charges of the Trustee, Registrar, Paying Agent, and other Fiduciaries; initial fees and charges of banks, insurers or other parties pursuant to guarantees, bond insurance policies and Related Financial Transactions; bond discounts; fees and expenses of underwriters; legal fees and charges; consulting fees and charges including costs of traffic studies and other feasibility studies conducted in connection with the sale of the Bonds; auditing fees and expense; financial advisor's fees and charges; costs of credit ratings; insurance premiums; fees and charges for the execution, transportation and safekeeping of Bonds; and any other administrative or other costs of issuing such Bonds and investing the Bond proceeds.

CPM/Payment Schedule means the most current schedule for the Project approved by Department as described in Section 13.3 of the Design-Build Contract.

Critical Path means the longest non-intermittent path between the first and the last event of the Project shown on the CPM/Payment Schedule (or, if more than one such path exists, each such path).

CTB means the Commonwealth Transportation Board, a state board of the State affiliated with the Department of Transportation.

Current Expenses means the Association's and/or Department's current out-of-pocket expenses of management, administration, maintenance, repair, preservation and operation of the Project and shall include, without limiting the generality of the foregoing, all expenses:

(a) to establish, market, collect, protect, adjust, transfer and account for tolls;

(b) to pay premiums and reserves for insurance;

(c) of management, administration and engineering relating to maintenance, repair and operation of the Project;

(d) of police services and incident response;

(e) of the Trustee and any securities depository;

(f) of legal services relating to Project management and operation;

(g) of marketing, promotion and advertising;

(h) to pay sales and use taxes, property taxes and any other taxes, fees, charges or levies (not based on income or revenue) imposed by a governmental entity and directly related to the Project or Project Right of Way or the operation thereof;

(i) of administering and maintaining the corporate existence of Association, and of administering Association's compliance with its obligations under the Project Agreements;

(j) compensation due to Department under Section 8.2(e) of the Comprehensive Agreement or for services, including Oversight Services, rendered after the Opening Date to the extent provided in Section 10.2 of the Comprehensive Agreement; and

(k) otherwise required or permitted to be paid by the Association or Department under the provisions of the Indenture, the Comprehensive Agreement or by law for management and operation of the Project.

Notwithstanding the foregoing, "Current Expenses" shall not include payments made by the Association or the Trustee to any reserve accounts under the Indenture, any expenses of Extraordinary Maintenance and Repair, or any payments of Debt Service.

Custom Software means (a) all Software and associated documentation that is first conceived or first actually reduced to practice in connection with development of the Project, (b) all revisions, modifications, derivations, translations, abridgments, condensations and expansions of such Software or other forms in which such Software may be recast, transformed or adapted, and (c) all compilations that incorporate the work or matter described in subsection (b) above.

Days means calendar days, unless otherwise designated.

Debt Service means, with respect to any particular Fiscal Year or other 12-month period, and as of any calculation date, an amount equal to the sum of:

(a) all principal of and interest on the applicable Outstanding Bonds, that is payable during such period; and

(b) the Redemption Price of such Outstanding Bonds payable during such period with respect to any Outstanding Bonds that are to be redeemed during such period pursuant to mandatory redemption provisions or pursuant to optional redemption provisions that have been exercised by the Issuer as of the calculation date.

For purposes of this definition:

(1) Debt Service shall not include the principal and Redemption Price of and interest on Outstanding Bonds to the extent the same is to be paid from proceeds of Bonds or other funds held by the Trustee or an escrow agent for the benefit of the Owners of Outstanding Bonds pursuant to Section 502 of the Indenture, and investment earnings on such proceeds or other funds.

(2) Interest paid and payable on Bonds with respect to which a Related Financial Transaction is in effect shall be determined by taking into account (in a manner that does not result in the duplication of payment requirements): (i) regularly scheduled payments due pursuant to such transaction so long as no failure to pay or event of default under such transaction has occurred and is continuing and (ii) upon termination of such transaction (by reason of an event of default or otherwise), amounts actually paid with respect to the termination of such transaction.

Debt Service Fund means the Route 895 Connector Toll Road Revenue Bond Debt Service Fund established by Section 502 of the Indenture.

Debt Service Reserve Fund means the Route 895 Connector Toll Road Revenue Bond Debt Service Reserve Fund established by Section 502 of the Indenture.

Debt Service Reserve Fund Requirement means the Senior Bonds Debt Service Reserve Account Requirement and First Tier Subordinate Bonds Debt Service Reserve Account Requirement.

Defeasance Investment Securities means any one or more of the following securities, if and to the extent the same are, at the time acquired, Investment Securities: (i) non-callable securities which are direct obligations of, or which are unconditionally guaranteed by, the United States; and (ii) any other security approved in writing by each Rating Agency.

Defect means, with respect to each element or aspect of the Work for which acceptable tolerances are specified in the Contract Documents or Reference Documents, any such element or aspect not conforming to such specified tolerances, and with respect to each element or aspect of the Work for which acceptable tolerances are not specified in the Contract Documents or Reference Documents, any such element or aspect not conforming to industry standards applicable thereto as of the time such element or aspect of the Work is undertaken; provided that in all instances "Defect" includes any element or aspect of the Work not conforming to the Design-Build Contract, Plans and Specifications, Laws, Regulations and Ordinances or Regulatory Approvals.

Department means the Virginia. Department of Transportation, a department of the State, and any other State agency succeeding to the powers, authorities and responsibilities of Department invoked by or under the Comprehensive Agreement.

Department Capital Cost Savings Account means the Department Capital Cost Savings Account of the Route 895 Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture.

Department-Caused Delays means unavoidable delays, to the extent that they affect a Critical Path, arising from the following matters and no others: (a) a suspension order pursuant to Section 20.1 of the Design-Build Contract (but not exceeding 24 hours), (b) Directed Changes, (c) failure of Department to provide responses to submittals and matters for which response by such Person is required, within the time periods indicated in the Contract Documents, (d) uncovering, removing and restoring Work, to the extent provided in Section 5.2.2.5 of the Design-Build Contract, and (e) any improper failure to act by Department within a reasonable time after delivery of notice by Contractor to Department requesting such action. Any court order to suspend Work shall not

be considered a Department-Caused Delay (although it may qualify as a Force Majeure event) despite the fact that Department may specifically direct Contractor to comply with the court order.

Department Default shall have the meaning set forth in Section 17.7 of the Comprehensive Agreement.

Department Standards means the requirements applicable to performance of the Work contained in the manuals, standards and procedures set forth in the Reference Documents.

Design-Build Contract means the Design-Build Contract between Department and FD/MK dated as of June 3, 1998, a copy of which is attached to the Comprehensive Agreement as Exhibit C, and any and all amendments and supplements thereto.

Differing Site Condition means any permanent condition on, within, under or of the Project Right of Way (such as but not limited to presence of Hazardous Substances or archaeological, paleontological, biological or cultural resources) which is materially different from (a) that represented by the data and information provided or reasonably available to Contractor as of the Agreement Date or (b) that which would have been discoverable by reasonable site investigation prior to the Agreement Date in accordance with recognized industry standards, provided that subsection (b) above shall not apply in determining whether any change in location of the Plume is a Differing Site Condition. A Differing Site Condition shall be deemed to include all manifestations of the same condition.[1]

Directed Change means any change in the Work (including changes in the standards applicable to the Work) which Department has directed Contractor to perform by Directive Letter pursuant to Section 19.3.1 of the Design-Build Contract or by Change Order under Section 19.3.2 of the Design-Build Contract. The term shall also include changes in the Work which are directly attributable to delays caused by bad faith actions, active interference, gross negligence or comparable tortious conduct by Department. The fact that Department has delivered a Directive Letter does not necessarily mean that a change in the Work has occurred.

Directive Letter means each letter issued by Department pursuant to Section 19.3.1 of the Design-Build Contract.

1/ For example, if a given geologic formation is continuous and affects the Project Right of Way in more than one location, all such locations are together part of the same "condition." Conversely, if, for example, a location is affected by a geologic fault and a nearby location is affected by a rock formation, each would be a separate "condition." Similarly, each and every discrete archeological site would be a separate "condition."

Discretionary Directed Change means any Directed Change other than a Safety Directed Change.

Draft Plans and Specifications means all drawings (including plans, elevations, sections, details and diagrams) furnished by Contractor showing the sizes, shapes and location of component elements comprising the Project and all specifications, reports, calculations, records and submittals necessary for design of the Project furnished by Contractor as described in Article 3 of the Design-Build Contract.

Draw Request means a draw request from FD/MK on the Draw Request and Certificate form attached as Exhibit 1 to the Master Indenture.

EIS means that certain signed final environmental impact statement, record of decision and re-evaluation for the Project prepared and approved by FHWA in 1994.

Environmental Laws means all Laws, Regulations and Ordinances now or hereafter in effect relating to the environment or to emissions, discharges, releases or threatened releases of Hazardous Substances into the environment including into the air, surface water or ground water or onto land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances or otherwise relating to the protection of public health, public welfare or the natural environment (including protection of nonhuman forms of life, land, surface water, groundwater and air) including the statutes listed in the definition of Hazardous Substances; the National Environmental Policy Act, as amended, 42 U.S.C. §§ 4321 et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. §§ 651 et seq.; the Hazardous Materials Transportation Act, as amended, 49 App. U.S.C. §§ 1801 et seq.; the Endangered Species Act, as amended, 16 U.S.C. §§ 1531 et seq.; the Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq.; and the Migratory Bird Treaty Act, 16 U.S.C. §§ 703 et seq.

Escrow Material means all Source Code and Source Code Documentation with respect to Proprietary Software, including all relevant commentary, explanations and other documentation, as well as instructions to compile such Source Code, plus all modifications, additions or substitutions made to such Source Code and Source Code Documentation by the Proprietary Software supplier.

ETTM means electronic toll and traffic management.

ETTM Data means all data generated by or accumulated in connection with the operation of the ETTM System, including but not limited to customer lists, customer identification numbers, customer account information and billing records and other customer specific information, and including but not limited to

use and enforcement data, origin and destination information, ETTM performance statistics, and real time traffic flow information.

ETTM Equipment means the AVI equipment; video monitoring equipment; manual, automatic and electronic toll collection equipment; the transportation management system equipment; communications equipment; and all other computer hardware necessary to meet the performance specifications for ETTM set forth in the Contract Documents.

ETTM Facilities means the administration/operations building, toll booths, canopies, utility connections, lighting facilities, pedestrian tunnels, etc.

ETTM System means the ETTM Equipment and the Software which monitors, controls or executes the ETTM Equipment.

Event of Default, for purpose of the Indenture, means an Event of Default as such term is defined in Section 902 of the Indenture, and for purposes of the Design-Build Contract, shall have the meaning set forth in Section 25.1 of the Design-Build Contract.

Extraordinary Completion Bonds means Bonds issued at the direction of the Department, in the case of insufficient funds to complete the Project, pursuant to subsection 2 of Section 720 of the Master Indenture.

Extraordinary Maintenance and Repair means maintenance, repair, renewal, reconstruction or replacement of any portion or component of the Project of a type which is not normally included as an annually recurring cost in Department's roadway maintenance and repair budgets.

Fair Market Value means, as of any particular time: (i) as to Investment Securities whose bid and asked prices are published on a regular basis in a financial journal or publication of general circulation in the United States of America, the bid price for such Investment Securities so published on or most recently prior to the date of valuation by the Trustee, or (ii) as to Investment Securities whose bid and asked prices are not published on a regular basis in a financial journal or publication of general circulation in the United States of America, the average bid price for such Investment Securities at the date of valuation by the Trustee, as reported to the Trustee by any three nationally recognized dealers in such Investment Securities.

FC means Fluor Corporation, a Delaware corporation, and its successors.

FD/MK means FD/MK Limited Liability Company, a Delaware limited liability company, and its permitted successors and assigns.

FD/MK Default shall have the meaning set forth in Section 17.1 of the Comprehensive Agreement.

FD/MK Indemnitee means and includes FD/MK and all of its member companies, parents, affiliates and subsidiaries, and each of their respective managers, directors, officers, employees, authorized agents and authorized representatives.

Fiduciary or **Fiduciaries** means the Trustee, the Registrar, the Paying Agent, and any escrow, authenticating or other agent of the Issuer or of any other Fiduciary, or any or all of them, as the context may require.

Final Acceptance means the occurrence of the events described in subsections (a) through (h) inclusive of Section 18.2.1 of the Design-Build Contract.

Final Acceptance Date means the date on which Final Acceptance occurs under the Design-Build Contract.

Financial Closing Date means the date on which the Bonds have been issued, sold and delivered to investors in accordance with the provisions of the Indenture.

Financial Transaction means any rate swap transaction, basis swap, cap transaction, floor transaction, hedge, collar transaction; any other "Transaction" as defined in the 1992 U.S. Municipal Counterparty Definitions published by the International Swap Dealers Association, Inc. or any amendments to or subsequent editions of such Definitions or any similar transaction (regardless of how defined) permitted under any such amendments to or more recent editions of such Definitions or of any similar publications of such association or any similar organization; any transactions similar to any of the foregoing; or any combination of any of the transactions described in this definition.

First Supplemental Indenture means the First Supplemental Indenture authorizing the issuance of the Series 1998 Bonds substantially in the form attached as Exhibit G to the Comprehensive Agreement.

First Tier Subordinate Bonds mean any Bonds designated as "First Tier Subordinate Bonds" by a Supplemental Indenture.

First Tier Subordinate Bonds Debt Service Account means the First Tier Subordinate Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

First Tier Subordinate Bonds Debt Service Reserve Account Requirement means the lesser of (i) 10 percent of the issue price within the meaning of the Code of the applicable First Tier Subordinate Bonds, (ii) the maximum annual principal and interest requirements for the applicable First Tier Subordinate Bonds, or (iii) 125 percent of the average annual principal and interest requirements for the applicable First Tier Subordinate Bonds.

Fiscal Year means the consecutive 12-month period beginning July 1 and ending June 30, or any other consecutive 12-month fiscal period used by Department for financial accounting purposes.

Fitch means Fitch Investors Service, Inc., its successors and assigns, and if Fitch Investors Service, Inc., shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer in its stead.

Fixed Price Amount shall have the meaning set forth in Section 14.1.1 of the Design-Build Contract.

Force Majeure means any of the following events (provided such events are beyond the control of Contractor and are not due to an act or omission of Contractor) which materially and adversely affects Contractor's obligations hereunder and which event (or the effects of which event) could not have been avoided by due diligence and use of reasonable efforts by Contractor:

(a) any tidal wave, hurricane force wind, flood, tornado or earthquake;

(b) any epidemic, blockade, rebellion, war, riot or act of sabotage or civil commotion;

(c) any strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence, except as excluded under subsection (iii) below;

(d) any unreasonable delay by a utility owner in connection with a Utility Relocation;

(e) any change in or new enactment of any written Laws, Regulations and Ordinances, or change in the judicial or administrative interpretation of, or adoption of any new Laws, Regulations and Ordinances which is materially inconsistent with Laws, Regulations and Ordinances in effect on the Agreement Date (subject to the exclusions set forth below);

(f) any suspension of the Work to the extent permitted under Section 25.4 of the Design-Build Contract; and

(g) any court order which restrains, enjoins, challenges or delays performance of the Work or the granting or renewal of any Regulatory Approval.

The term "Force Majeure" shall be limited to the matters listed above and specifically excludes from its definition the following matters which might otherwise be considered force majeure:

(i) fire or other physical destruction or damage, including lightning, explosion, drought, rain, storm or action of the elements or other acts of God not listed in subsection (a) above;

(ii) except as provided in subsection (b) above, explosion, malicious or other acts or similar occurrence;

(iii) strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence particular to a Contractor Party or the Project;

(iv) the presence at, near or on the Site of any Hazardous Substance;

(v) the presence at, near or on the Site of any archaeological, paleontological or cultural resource or endangered species;

(vi) Differing Site Conditions;

(vii) the suspension, termination, interruption, denial or failure to obtain or nonrenewal of any permit, license, consent, authorization or approval (including all Regulatory Approvals except to the extent that Department has agreed to be responsible for them in Section 10.3 of the Design-Build Contract) which is necessary for the performance of the Work or the operation or maintenance of the Project, except for any such matter resulting from a lawsuit as described in subsection (d) above;

(viii) a change in any Laws, Regulations and Ordinances (such as increases in tax rates) which causes an increase in amounts payable by Contractor for deliverables but which does not change the obligations to be performed by Contractor hereunder;

(ix) any lawsuit relating to any Regulatory Approval which is Contractor's risk under Article 10 of the Design-Build Contract, except as provided in subsection (e) above;

(x) Directed Changes;

(xi) any delay or cost risk for which coverage is to be provided through insurance required hereunder; and

(xii) all other matters not caused by Department or beyond the control of Department and not listed in subsections (a) through (g) above.

Fund or **Funds** means any one or more, as the case may be, of the separate special funds established by the Indenture or by any Supplemental Indenture.

Generally Accepted Accounting Principles or **GAAP** means such accepted accounting practice as, in the opinion of the Accountant, conforms at the time to a body of generally accepted accounting principles.

Governmental Person means any federal, state, local or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity.

Guaranteed Completion Date shall have the meaning set forth in Section 17.2.1 of the Design-Build Contract.

Guaranty of Contractor Loan Agreement means the Guaranty of Contractor Loan Agreement to be issued on the Financial Closing Date by FC, MKC (Ohio) and MKC (Delaware), in the form attached as Exhibit J to the Comprehensive Agreement, jointly and severally guaranteeing payment and performance by FD/MK under the Contractor Loan Agreement, and any and all amendments and supplements thereto.

Hazardous Substance means (a) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., the Clean Water Act, 33 U.S.C. Section 1251 et seq., the Clean Air Act, 42 U.S.C. Section 7401 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 136 et seq., Virginia Waste Management Act, §10.1-1400 et seq., Code of Virginia (1950) as amended, all as amended or as may be amended, or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes, (c) petroleum or crude oil or products thereof other than petroleum and petroleum products which are contained within regularly operated motor vehicles, (d) asbestos and (e) radioactive wastes and substances.

Implementation Guidelines means the Implementation Guidelines under the PPTA adopted by the Commissioner on July 1, 1995 governing the selection of Qualifying Transportation Facilities under the purview of Department, as such Implementation Guidelines may be amended or supplemented.

Indenture means the Master Indenture of Trust from the Association to the Trustee pursuant to which the Bonds are to be issued, substantially in the

form attached to the Comprehensive Agreement as Exhibit F, and each Supplemental Indenture entered into pursuant thereto.

Inspection means the act of viewing or looking carefully at construction, manufacturing and design and maintenance practices, processes and products, including document control and Shop Drawing review, to ensure the practices, processes and products comply with the quality requirements contained in the Contract Documents.

Intellectual Property means ETTM books and records, toll-setting and traffic management algorithms, and Software and associated documentation used in connection with the Project (including but not limited to Software and associated documentation used for management of traffic on the Project) and the ETTM Data.

Interest Payment Date means the date on which interest is due and payable on any Series of Bonds.

Interest Rate means any interest rate borne or to be borne by a Series of Bonds.

Investment Security or **Investment Securities** means any one or more of the following securities:

(a) Direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America;

(b) Obligations, debentures, notes or other evidences of indebtedness issued or guaranteed, directly or indirectly, by any of the following: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Federal National Mortgage Association; Federal Home Loan Mortgage Corporation; Farmers' Home Administration; Tennessee Valley Issuer; Federal Farm Credit System; Federal Financing Bank; the Government National Mortgage Association; the Student Loan Marketing Association; or any successor;

(c) Obligations issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes, preliminary loan notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(d) Direct and general obligations of or obligations guaranteed by the State, the payment of the principal of and interest on which is a general

obligation of the State, provided that at the time of their purchase, such obligations are rated in one of the two highest rating categories by each Rating Agency;

(e) Demand deposits or interest-bearing time deposits, certificates of deposit or other similar banking arrangements, with the Trustee or a member of the Federal Deposit Insurance Corporation, or any such institution having (or whose parent holding company has) undivided capital and surplus of at least $50,000,000, provided that such time deposits or certificates of deposit, to the extent not insured to the full amount thereof, must be fully secured by obligations of the type specified in (a), (b), (c) or (d) above or (g) below which have a Fair Market Value, including accrued interest, at least equal at all times to the amount of such deposits;

(f) Repurchase Agreements with banks which are members of the Federal Deposit Insurance Corporation or with members of the Association of Primary Dealers in United States Government Securities (or any successor thereof), the underlying securities of which are of the type described in (a) above, which are held by a third party bank for safekeeping on behalf of the Issuer, and which are fully secured at all times by obligations of the same type which have a Fair Market Value, including accrued interest, at least equal to the amount of such Repurchase Agreement, provided that at the time such Repurchase Agreement is acquired, the issuer of the repurchase agreement is rated at least "A" by Moody's, if any Bonds are then rated by Moody's, and at least "A-" by S&P, if any Bonds are then rated by S&P;

(g) Direct and general obligations of any state, political subdivision or governmental authority within the territorial United States of America, provided that at the time of their purchase, such obligations are rated in one of the two highest rating categories by each Rating Agency;

(h) Certificates of deposit of any bank, including the Trustee, with undivided capital and surplus of at least $50,000,000, the unsecured debt of which is rated as of the date of acquisition in one of the two highest rating categories by each Rating Agency, with such certificates of deposit to be secured by any other Investment Securities or any security then acceptable to secure deposits of public funds of the State and having a Fair Market Value, including accrued interest, at least equal to the amount of the certificate of deposit;

(i) Investment agreements with any bank or other financial institution, including the Trustee, with undivided capital and surplus of at least $50,000,000, the unsecured debt of which is rated as of the date of acquisition in one of the two highest rating categories by each Rating Agency, with such investment agreement to be secured by any other Investment Securities described herein or by any security then acceptable to secure deposits of public

funds of the State and having a Fair Market Value, including accrued interest, at least equal to the amount of the Investment Agreement;

(j) Unsecured investment agreements with the Trustee or any bank or other financial institution the unsecured debt or counterparty rating of which is rated, as of the date of acquisition in one of the two highest rating categories by each Rating Agency; and

(k) Any other obligation which, at the time acquired, is rated, by each Rating Agency, in one of the two highest rating categories for long-term obligations or in the highest rating category for short-term obligations.

Issuer means the Association.

ITS means any application of computer, electronics and/or telecommunications equipment and software and supporting fixtures and equipment whose function is to provide information, data and/or services to the traveling public or Department or to manage and control traffic, all items listed in the Federal Highway Administration Intelligent Transportation Systems Summary Report dated January 19, 1995, and any future systems or services conceived or developed for the same or similar purposes; however ITS shall not include the ETTM System as used for Project Purposes.

Laws, Regulations and Ordinances means all applicable laws, codes, rules, ordinances, restrictions and regulations of the federal, State, regional or any local government (including those resulting from the initiative or referendum process) and judicial or administrative orders.

Letter of Instructions means a written directive and authorization executed by an Authorized Association Representative.

Letter of Representations means the Letter of Representations between the Issuer and The Depository Trust Company, New York, New York, regarding the Public Debt issued under the Indenture, and, if necessary, any similar letter regarding any additional Bonds offered and sold to the public.

Lien means any pledge, lien, security interest, mortgage, deed of trust or other charge or encumbrance of any kind, or any other type of preferential arrangement (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature of a security instrument and the filing of or agreement to file any financing statement under the Virginia Uniform Commercial Code).

Liquidated Damages shall have the meaning set forth in Section 25.6 of the Design-Build Contract.

Master Indenture means the "Master Indenture" referred to in the definition of Indenture, without regard to any Supplemental Indenture.

Memorandum and Assignment means the Memorandum of Comprehensive Agreement and Absolute Assignment of Toll Revenues among Department, FD/MK, the Association and the Trustee in the form of Exhibit K to the Comprehensive Agreement, and any and all amendments and supplements thereto.

MKC (Delaware) means Morrison Knudsen Corporation, a Delaware corporation and its successors.

MKC (Ohio) means Morrison Knudsen Corporation, an Ohio corporation and its successors.

Moody's means Moody's Investors Service Inc., its successors and assigns, and, if Moody's Investors Service, Inc., shall for any reason no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer and its stead.

Nationally Recognized Municipal Securities Information Repository or NRMSR means a nationally recognized municipal securities information repository, as recognized from time to time by the Securities and Exchange Commission by no-action letter for the purposes referred to in SEC Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended.

NEPA means the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., as amended and as it may be amended from time to time.

Non-Construction Costs means (1) the costs of Project Right of Way acquisition and relocation, (2) the costs of Utility Relocations, (3) the costs of design and engineering, (4) the costs of promoting, marketing and advertising the Project and its opening to the public incurred prior to the commencement of revenue operations on the Project, and (5) any other costs approved by the Department pursuant to Section 3.3 of the SIB Loan Agreement.

Notice of Proposed Change/Direction means a notice issued by Department concerning a possible Change Order, as specified in Section 19.3.2 of the Design-Build Contract.

Notice of Termination means a notice issued by Department to terminate the Design-Build Contract and the performance of the Work by Contractor pursuant to Article 26 of the Design-Build Contract.

Opening Date means the first date on which the Project (other than overpasses and underpasses) is opened for regular public use.

Operating Expenses means Current Expenses.

Operator shall have the meaning assigned to such term in Section 56-557 of the PPTA and, for purposes of the Comprehensive Agreement, means FD/MK from the Agreement Date to and including the Transition Date and means the Association thereafter until the end of the Term of the Comprehensive Agreement.

Optimum Toll Revenues means the highest aggregate Toll Revenues that the Toll Consultant reasonably estimates may be collected in any Fiscal Year, based on a traffic study conducted as and when required under Section 4.2 of the Comprehensive Agreement or Section 717 of the Indenture.

Outstanding means, with respect to any Bonds as of any date, Bonds theretofore or thereupon being authenticated and delivered under the Indenture except:

(a) Bonds canceled or delivered for cancellation at or prior to such date;

(b) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to the Indenture; and

(c) Bonds deemed to have been paid, redeemed, purchased or defeased as provided in the Indenture, in any Supplemental Indenture, as applicable, or as provided by law.

Oversight Budget shall have the meaning set forth in Section 5.2.3 of the Design-Build Contract.

Oversight Services means those services and functions Department has the right or obligation to perform or to cause to be performed under the Laws, Regulations and Ordinances or any Project Agreement in order to monitor, review, manage or administer the Project Agreements or the work or performance of the Operator under the Project Agreements; provided that Oversight Services do not include performance by Department of responsibilities delegated to it under Section 8.3 of the Comprehensive Agreement.

Paying Agent means any bank or trust company or national or state banking association (which may include the Trustee) designated to make payment of the principal and Redemption Price of and interest on the Bonds of any Series, and its successor or successors, hereafter appointed by Supplemental Indenture and meeting the requirements of Article X of the Indenture.

Payment Bond means the payment bond described in Section 22.6 of the Design-Build Contract.

Performance Bond means each performance bond to be provided by a Subcontractor as described in Section 22.6 of the Design-Build Contract.

Person means any individual, public or private corporation, county, district, authority, municipality, political subdivision or other entity of the State or the United States of America, and any corporation, limited liability company, partnership, association, firm, trust, estate, or any other entity whatsoever.

Plans and Specifications means the 100% completed maps, plans, drawings and specifications for different components of the Work as approved by Department's Chief Engineer and bearing the seal of a Virginia licensed engineer.

Plume means the existing underground plume of Hazardous Substances located generally on the west side of the James River in the vicinity of the Route 895 and I-95 interchange, as depicted and described (a) in the certain report entitled "Environmental Site Assessment, Virginia Department of Transportation, I-95/I-895 James River to Route 1," prepared by Nick Froelich, of the Department, and Marshall Miller & Associates, bearing MM&A Project No. VRR190 and (b) on the certain map of such vicinity comparing contamination in 1993 and 1997, prepared by Site Blauveldt.

PPTA means the Public-Private Transportation Act of 1995, which is codified as Title 56, Chapter 22, Section 56-556 et seq., Code of Virginia, as amended from time to time.

Pre-Existing Hazardous Substances means any Hazardous Substance that was present within the Project Right of Way limits prior to acquisition of the property for the Project, and which was not placed or deposited there by either Contractor or Department.

Pre-Opening Expense Draw Request means a draw request from the Issuer on the Draw Request and Certificate form attached as Exhibit 2 to the Master Indenture.

Preliminary Engineering means all the attachments included in Appendices A and B to the Scope of Work.

Principal Installment means, to the extent applicable to a particular Series, as of any particular date of calculation, an amount of money equal to the aggregate of (i) the principal amount or Accreted Value of Outstanding Bonds of such Series which mature on a single future date, reduced by the aggregate principal amount or Accreted Value of such Outstanding Bonds of such Series which would at or before said future date be retired as a result of Sinking Fund Installments applied in accordance with the Indenture plus (ii) the amount of any Sinking Fund Installment payable on said future date for the retirement of any Outstanding Bonds of such Series.

Project means (a) all improvements constituting the Route 895 Connector as generally described in the Scope of Work, (b) the ETTM Facilities and

System, (c) all other improvements and other Work Product to be provided by Contractor as a condition to Final Acceptance in accordance with the Contract Documents, including all replacement wetlands and other off-site improvements required by applicable Law, Regulations and Ordinances and Regulatory Approvals, and (d) any Project Enhancements; provided, however, that the term "Project" as used in the Design-Build Contract excludes any Project Enhancements.

Project Agreement means any of the Comprehensive Agreement, the Memorandum and Assignment, the Contract Documents, the Project Financing Agreement, the Completion Guaranty, the Indenture, the SIB Loan Agreement, the SIB Loan Note, the Contractor Loan Agreement, the Guaranty of Contractor Loan Agreement, the Continuing Disclosure Agreement and the Bonds issued pursuant to the First Supplemental Indenture; and the term "Project Agreements" means all such agreements and documents in the aggregate.

Project Enhancements means any extensions of, additions to, or major modifications, replacements or reconstruction of the Project undertaken by Department or the Association with Department direction and approval after the date of Substantial Completion, including but not limited to new ramps and connectors, roadway and ramp widenings, lane additions (including high occupancy vehicle lanes), rail and transit improvements, and other additional access facilities and capacity improvements to the Project.

Project Financing Agreement means the Project Financing, Assignment and Assumption Agreement among Department, FD/MK and the Association in the form of Exhibit E to the Comprehensive Agreement, and any and all amendments and supplements thereto.

Project Manager shall have the meaning set forth in Section 2.2.3 of the Design-Build Contract.

Project Purposes means and is limited to the developing, permitting, design, financing, acquisition, construction, installation, equipping, maintenance, repair, preservation, modification, operation, management and administration of the Project. Project Purposes exclude, however, any activities associated with Reserved Rights.

Project Right of Way means all real property (which term is inclusive of all estates and interests in real property) which is necessary for ownership and operation of the Project by Department. The term specifically includes (a) all property within the access control line for the Project and (b) the property on which the ETTM Facilities are located. The term specifically excludes any temporary easements or other real property interests which Contractor deems necessary or advisable in connection with construction of the Project and/or Utility Relocations.

Proprietary Software means all Software and associated documentation developed outside the scope of the Comprehensive Agreement and the Design-Build Contract but used for Project Purposes.

Public Debt means the Senior Bonds, the First Tier Subordinate Bonds and any other Bonds issued in a public offering under the Indenture. Public Debt shall not include the SIB Bond, the Contractor Bond or any other Bonds issued to Department or Contractor.

Punch List means the list of Work which remains to be completed after achievement of Substantial Completion, and shall be limited to minor incidental items of Work necessary to correct imperfections which have no adverse effect on the safety or operability of the Project.

Qualified Management Contract means a contract that, pursuant to the applicable United States Treasury regulations, will not result in use of the Project by the manager under such contract being "private business use" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended.

Qualifying Transportation Facility shall have the meaning assigned to such term in Section 56-557 of the PPTA.

Quality Assurance (QA) means all those planned and systematic actions necessary to provide confidence that all Work fully complies with the Contract and that all materials incorporated in the Work, all equipment and all elements of the Work will perform satisfactorily for the purpose intended. Actions include design checks and reviews; document control; Shop Drawing review and approval; materials sampling and testing at the production site and the Project site; inspection of manufacturing/processing facilities and equipment; inspection of on-site equipment, calibration of test equipment, documentation of QA activities, etc.

Quality Assurance Manager means the independent consultant responsible for inspecting and testing in accordance with the Quality Assurance and Control Inspection Program as described in Appendix C attached to the Scope of Work.

Quality Assurance and Control Inspection Program means the program described in Appendix C attached to the Scope of Work.

Quality Control (QC) means the total of all activities performed by Contractor, designer, producer, or manufacturer to ensure that a product meets Contract requirements. For highway design, construction and maintenance this includes design procedures and checking, materials handling and construction procedures, calibration and maintenance of equipment, Shop Drawing review, document control, production process control, and any sampling, testing, and

inspection done for these purposes. QC also includes documentation of QC efforts.

Rating Agency means any one or more, as the context may require, of the following that as of the date of applying this definition maintain a rating on the applicable Bonds: Fitch, Moody's and S&P.

Rebate Analyst means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Issuer to make the computations required under the Indenture or any Supplemental Indenture.

Rebate Fund means the Route 895 Connector Toll Road Revenue Bond Rebate Fund established by Section 502 of the Indenture, and includes any separate accounts or subaccounts established by the terms of any Supplemental Indenture or any agreement pursuant thereto.

Record Date as used with respect to any Interest Payment Date for any Series of Bonds offered and sold to the public means the date designated in any Supplemental Indenture as the record date for the payment of interest on such Series of Bonds, or if no Record Date is so designated (i) with respect to interest not in default, the fifteenth day next preceding such Interest Payment Date in respect of such Series and (ii) with respect to defaulted interest, the fifth day preceding payment thereof.

Redemption Date means the date upon which any Bonds are to be redeemed prior to their respective fixed maturities pursuant to the mandatory or optional redemption provisions of any Supplemental Indenture.

Redemption Price means, with respect to any Bond, the amount, including any applicable premium, payable upon the mandatory or optional redemption thereof, as provided in any Supplemental Indenture.

Reference Documents means those documents listed in the Scope of Work.

Refunding Bonds means all Bonds, whether issued in one or more Series, issued for the purpose of refunding a like or different principal amount of Bonds, and authenticated and delivered pursuant to the Indenture.

Register means the register maintained by the Registrar for each Series of Bonds which shows ownership of Bonds in accordance with Section 308 of the Indenture.

Registrar means any bank or trust company or national or state banking association (which may include the Trustee), designated to keep a Register of the Owners of the Bonds of any Series and its successor or successors,

hereafter appointed by Supplemental Indenture and meeting the requirements of Article X of the Indenture.

Regulatory Approvals means all local, regional, state and federal agreements, studies, findings, permits, approvals, authorizations, certifications, consents, decisions, exemptions, filings, leases, licenses, registrations, rulings and other governmental authorizations required to be obtained or completed under applicable Laws, Regulations and Ordinances prior to undertaking any particular activity contemplated by the Comprehensive Agreement or Design-Build Contract. The term "Regulatory Approvals" includes the EIS.

Reimbursable Site Work means the portion of the Differing Site Conditions Work, if any, subject to reimbursement by Contractor pursuant to Section 19.4.1.2(e)(ii) of the Design-Build Contract.

Related Financial Transaction means, with respect to any Series of Bonds, a Financial Transaction pursuant to which payments by the Issuer are to be paid from or secured by revenues or funds pledged to the payment of or as security for such Series of Bonds and payments to the Issuer are pledged to the payment of or as security for such Series of Bonds.

Related Party means:

(a) any person or entity that is a stockholder, member, manager or general or limited partner of FD/MK or that owns, directly or through one or more intermediate entities a 10% or greater equity interest in FD/MK (each a "substantial owner");

(b) any entity in which a substantial owner owns directly or through one or more intermediate entities a 10% or greater equity interest;

(c) any entity effectively controlled by a substantial owner; or

(d) senior management of FD/MK, or members of the immediate family of any individual substantial owner or of such senior management.

Renewal and Replacement Fund means the Route 895 Connector Toll Road Revenue Bond Renewal and Replacement Fund established by Section 502 of the Indenture.

Renewal and Replacement Fund Requirement means the amount to be deposited on an annual basis into the Renewal and Replacement Fund as specified by the Department for inclusion in the Annual Budget.

Repurchase Agreement means any agreement entered into with a Person pursuant to which the Trustee, on behalf of the Issuer, purchases and

such Person agrees to repurchase specified Investment Securities, provided that the repurchase price shall not be less than the purchase price.

Reserved Rights means all of the following:

(a) subject to Section 12.1 and the last sentence of Section 19.2 of the Comprehensive Agreement, Department's right to use, possess and enjoy any real and personal property over, on, under or adjacent to the Project Right of Way for other transportation and transit facilities, including but not limited to tunnels, flyovers, interchanges and fixed guideways; and

(b) all right to use, and use of:

(i) all electrical, fiber optic and wireless conduit, cable, capacity, towers, antennas and associated equipment or other telecommunications equipment, hardware and capacity existing over, on, under or adjacent to any Project Right of Way installed by anyone, whether before or after the Agreement Date, and all Software which executes such equipment and hardware and related documentation, to the extent not necessary and required for traffic management for the Project or for other Project Purposes;

(ii) ETTM Data or other data generated from operation of the Project or toll collection technology except as required solely for Project Purposes;

(iii) any area or space over, on, under or adjacent to the Project Right of Way for development and operation of any office, commercial, industrial or mixed use real estate project, such as but not limited to revenue-generating service or rest areas;

(iv) any equipment, facilities or capabilities for ITS studies or applications installed by Department and the right to install any such equipment, facilities or capabilities other than the ETTM System;

(v) toll collection technology for other than Project Purposes; and

(vi) any area or space over, on, under or adjacent to the Project Right of Way for any other commercial or non-commercial development or use.

Responsible Public Entity shall have the meaning assigned to such term in Section 56-557 of the PPTA and, for purposes of the Comprehensive Agreement, means Department.

Retainage shall have the meaning set forth in Section 14.2.6.1 of the Design-Build Contract.

Retainage Account means the Retainage Account of the Route 895 Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture.

Revenue Fund means the Route 895 Connector Toll Road Revenue Bond Revenue Fund established by Section 502 of the Indenture.

Revenues means all amounts received by or on behalf of the Association from Toll Revenues; proceeds from insurance (other than proceeds of fire and other casualty insurance), condemnation awards with respect to the Project; all amounts payable to the Association (but not Department) as liquidated damages under contracts, in each case, to the extent the same relate to the Project; all amounts derived from the sale or other disposition of the Association's interest in the Project; amounts derived as grants, loans or otherwise from the United States of America, the State or any other Person which may be available for, and which the Association determines to, deposit in the Revenue Fund; all investment earnings that are transferred to or deposited into the Revenue Fund; all moneys released from another Fund or Account and transferred to the Revenue Fund pursuant to subsection 2 of Section 505 of the Indenture; and all other amounts derived from or in respect of the operation of the Project which constitute revenues in accordance with Generally Accepted Accounting Principles, including without limitation tolls and any interest income earned on any Funds and Accounts which is required to be transferred to or maintained in any Fund, Account or Subaccount hereunder; provided, however, Revenues exclude (a) the costs of goods and/or services in kind provided to Association with respect to which Association has no obligation of repayment, (b) moneys and interest thereon held in the 1998 Series D Subaccount of the Construction Fund, (c) moneys and interest thereon held in the Department Capital Cost Savings Account of the Construction Fund, (d) amounts Department elects to fund under Section 6.5(c) or (e) of the Comprehensive Agreement, (e) moneys and interest thereon held in any other Fund or Subaccount other than the Revenue Fund and (f) revenues and proceeds arising out of or relating to Reserved Rights or the disposition of surplus or residual property.

RFC Notice shall have the meaning set forth in Section 19.4.2.1 of the Design-Build Contract.

Right of Way Acquisition Plan means the modifications to Department's Right of Way Manual of Instructions prepared by Contractor and approved by Department pursuant to Section 6.1.1 of the Design-Build Contract.

Right of Way Plans means the Project Right of Way plans included in the Preliminary Engineering.

ROW/Utility Allowance means the portion of the Contract Price allocated to Project Right of Way Work and Utility Relocation Work, as further described in Section 14.1 of the Design-Build Contract.

Rule 15c2-12 means Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (17 C.F.R. §240.15c2-12).

S&P means Standard & Poor's Ratings Group, a Division of McGraw-Hill, Inc., its successors and assigns, and, if Standard & Poor's Ratings Group, a Division of McGraw-Hill, Inc., shall for any reason no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer in its stead.

Safety Directed Change means a Directed Change directing Contractor to perform changes in the Work and setting forth a written finding of the Department's Chief Engineer to the effect that it is issued to conform to changes in safety standards or methodologies agreed to or adopted by Department for similar portions of State Highways.

Safety Program means Contractor's approved safety program meeting the requirements set forth in Section 5.1.2 of the Design-Build Contract.

Scheduled Completion Date shall have the meaning set forth in Section 14.5.1 of the Design-Build Contract.

Scope of Work means the document attached to the Design-Build Contract as Appendix 6.

Second Tier Subordinate Bonds means any Bonds designated as "Second Tier Subordinate Bonds" by a Supplemental Indenture.

Second Tier Subordinate Bonds Debt Service Account means the Second Tier Subordinate Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

Securities Depository means The Depository Trust Company, a corporation organized and existing under the laws of the State of New York, and any successor Securities Depository appointed pursuant a Supplemental Indenture.

Senior Bonds mean any Bonds designated as "Senior Bonds" by a Supplemental Indenture.

Senior Bonds Capitalized Interest Subaccount has the meaning set forth in any Supplemental Indenture.

Senior Bonds Capitalized Interest Subaccount Requirement means the amount required to be deposited in the Senior Bonds Capitalized Interest Subaccount by any Supplemental Indenture, calculated in the manner and times as set forth therein.

Senior Bonds Debt Service Account means the Senior Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

Senior Bonds Debt Service Reserve Account means the Senior Bonds Debt Service Reserve Account of the Debt Service Reserve Fund established by Section 502 of the Indenture.

Senior Bonds Debt Service Reserve Account Requirement means the lesser of (I) 10 percent of the issue price within the meaning of the Code of the applicable Senior Bonds, (ii) the maximum annual principal and interest requirements for the applicable Senior Bonds, or (iii) 125 percent of the average annual principal and interest requirements for the applicable Senior Bonds.

Series means Bonds identified as a separate series which are authenticated and delivered on original issuance and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to any Supplemental Indenture. All Bonds of a particular Series shall be of the same Tier.

Series 1998D Bonds Proceeds Account means the Series 1998D Bonds Proceeds Account of the Construction Fund established by Section 502 of the Indenture.

Shop Drawings means drawings showing the sizes, shapes and locations of component elements comprising the Project.

SIB Bond means the Series 1998D Bond issued to the CTB under the Indenture and in accordance with the SIB Loan Agreement evidencing the SIB Loan, and any and all supplements and amendments thereto.

SIB Loan means the loan authorized to be made by the CTB to the Association under the SIB Loan Agreement.

SIB Loan Agreement means the SIB Loan Agreement among the CTB, the Association and the Trustee in the form of Exhibit H to the Comprehensive Agreement, and any and all amendments and supplements thereto.

SIB Loan Note means the promissory note to be delivered by the Association to the CTB in the form attached as Exhibit B to the SIB Loan Agreement.

Sinking Fund Installment means, as of any particular date of calculation and with respect to any Series of Bonds, the amount of money to be applied as the Redemption Price of Bonds subject to mandatory sinking fund redemption in any Fiscal Year prior to maturity pursuant to the Supplemental Indenture for such Series, as such Sinking Fund Installment shall have been previously reduced by

the principal amount of any Bonds of such Series of the maturity in respect of which such Sinking Fund Installment is payable which are purchased or redeemed by the Trustee in accordance with the provisions of Section 507 of the Indenture or of any Supplemental Indenture, other than by the prior payment of a Sinking Fund Installment.

Site means those areas designated in writing by Department for performance of the Work and such additional areas as may, from time to time, be designated in writing by Department for Contractor's use in performance of the Work. The Site initially includes the area within the Project Right of Way limits. For purposes of insurance, indemnification, safety and security requirements and payment for use of equipment the term "Site" also includes any areas on which Utility Relocation Work is performed and any property being temporarily used by Contractor for storage of equipment and/or construction Work.

Software means (a) computer instructions, including programs, routines and databases and applications supplied, procured or developed by Contractor as part of the Work or by the Association or Department in connection with the operation of the Project or other Project Purposes or in connection with Reserved Rights, including but not limited to that which monitors, controls or executes on ETTM Equipment or ITS equipment or hardware, and (b) all modifications, updates and revisions made to the matter described in subsection (a) above, including those made to correct errors or to support new models of computer equipment and/or new releases of operating systems.

Source Code means Software program higher order language listings, internal documentation embedded in program listings, associated data files and data structures, in electronic and/or printed form, necessary for maintenance of and modifications to the Software.

Source Code Documentation means the program level Software design documentation, associated data files, data structures and algorithm descriptions necessary to make program code level modifications to delivered Software.

Standard Specifications means the Virginia Department of Transportation Metric Road and Bridge Specifications dated January 1997, provided that the document attached to the Design-Build Contract as Appendix 9 shall be substituted for Division I thereof. Divisions II through VII will not apply to the Work except in connection with any design furnished by Contractor which references the Standard Specifications.

State means the Commonwealth of Virginia.

State Highway means any highway designated a State Highway pursuant to Title 33.1, Chapter 1, Sections 25, 48 and 67, Code of Virginia.

State Indemnitee means and includes Department, the Commissioner, the CTB, the State and all elected representatives, appointed officials, commissioners, officers, members, employees, authorized agents and authorized representatives of any of them.

Subaccount means any one or more of the subaccounts from time to time created in any of the Accounts established by Section 502 of the Indenture or by any Supplemental Indenture.

Subcontract means any agreement by Contractor with any other Person to perform any part of the Work or provide any materials, equipment or supplies for any part of the Work, or any such agreement at a lower tier, between a Subcontractor and its lower tier Subcontractor.

Subcontractor means any Person with whom Contractor has entered into any Subcontract to perform any part of the Work or provide any materials, equipment or supplies for the Project on behalf of Contractor (and any other Person with whom any Subcontractor has further subcontracted any part of the Work).

Subordinate means, when used with respect to a particular Tier of Senior Bonds, First Tier Subordinate Bonds or Second Tier Subordinate Bonds or bonds or other obligations subordinate thereto, all Bonds with respect to which amounts in the Revenue Fund are to be applied to the Debt Service Account for such Bonds pursuant to subsection 1 of Section 505 of the Indenture at a priority following the priority at which such amounts are to be applied to the Debt Service Account for the particular Tier of Bonds.

Substantial Completion shall have the meaning set forth in Section 17.3 of the Design-Build Contract.

Superior Obligation means a Tier of Bonds that is paid out of a Debt Service Account at a priority above the priority of another Debt Service Account for another Tier of Bonds pursuant to Section 505 of the Indenture.

Supplemental Indenture means any indenture supplemental to or amendatory of the Master Indenture, entered into by the Issuer and the Trustee in accordance with Article XI of the Indenture.

Supplier means any Person not performing work at the Site that supplies machinery, equipment, materials or systems 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 the State Corporation Commission to do

business in the State, listed in the U.S. Treasury Department Circular 570 and with an A.M. Best and Company rating level of A- or better, Class VII or better, or as otherwise approved by Department, at its sole discretion, which has issued the Payment Bond or Performance Bond.

Surplus Fund means the Route 895 Connector Toll Road Revenue Bond Surplus Fund established by Section 502 of the Indenture.

Tax Compliance Certificate means the tax compliance certificate delivered to the Trustee in connection with any Series of Tax-Exempt Bonds.

Tax-Exempt Bonds means Bonds the interest on which is intended to be excludable from the gross income of the Owners thereof for federal income tax purposes.

Term, for purposes of the Comprehensive Agreement, means the time period commencing on the Agreement Date and expiring on the latest date the Bonds, including the SIB Bond and Contractor Bond are paid (or fully defeased) and the lien of the Indenture has been discharged in accordance with its terms.

Tier means all Bonds of one or more Series the principal and Redemption Price of and interest on which are payable from the same Debt Service Account. Bonds issued pursuant to subsection 2 of Section 720 of the Indenture are deemed to constitute a separate Tier of Bonds.

Toll Consultant means Wilbur Smith & Associates and any other engineer or engineering firm selected by the Association (with the consent and approval of Department and the Trustee) to perform and carry out the duties imposed on the Toll Consultant under the Comprehensive Agreement and the Indenture.

Toll Revenues means all amounts received by or on behalf of the Issuer from fees, tolls, rates and charges for the privilege of traveling on the Project imposed by the Issuer pursuant to the Comprehensive Agreement. Toll Revenues excludes revenues and proceeds arising out of or relating to Reserved Rights.

Toll Servicing Rights shall have the meaning set forth in Section 3.4(b) of the Comprehensive Agreement.

Total Remaining Costs of the Project has the meaning set forth in item F of the form of Draw Request attached as Appendix 3 to the Design-Build Contract and Exhibit 1 to the Master Indenture.

Traffic and Revenue Study means the certain "Route 895 Connector Comprehensive Traffic and Revenue Study," dated May 14, 1998, prepared by Wilbur Smith & Associates, all data, charts, tables analysis and other documentation assembled or prepared by Wilbur Smith in connection therewith

and all existing and future updates, reissuances, supplements and amendments thereto.

Transition Date means the first to occur of (a) the Opening Date, (b) the Final Acceptance Date or (c) the date, if any, that FD/MK's rights under the Comprehensive Agreement and the Design-Build Contract are terminated pursuant to Article XVI of the Comprehensive Agreement.

Transportation Trust Fund Earnings Rate means for any month the composite yield during the preceding month on average assets in the Commonwealth of Virginia Transportation Trust Fund as reported in the Department of Treasury "General Account Investment Portfolio-Monthly Average Balances and Yields." The composite yield is determined by dividing the annualized earnings for the month, which includes interest accruals, accretions, amortization and realized gains and losses, by the average asset balances for the month.

Trustee means Crestar Bank, a Virginia banking corporation, its legal successor, or any other commercial bank or trust company duly organized and existing under the laws of any state or the United States of America, which is authorized under the laws of the State to exercise corporate trust powers and is subject to examination by federal authority, appointed pursuant to Article X of the Indenture as its successor or its successors.

Trust Estate means:

(a) All right, title and interest of the Issuer now owned or hereafter acquired in all Revenues and to the Funds (except for the Rebate Fund, the Series 1998D Bonds Proceeds Account, the Department Capital Cost Savings Account and the Retainage Account) including amounts deposited therein (together with all investments thereof and investment income earned thereon, including Investment Securities held therein); provided, that the Issuer may establish one or more separate accounts in the Funds and Accounts, which accounts and the amounts deposited therein (together with all investments thereof and investment income earned thereon) may be held in trust exclusively for the payment of one or more designated Series of Bonds or portions thereof or for any other designated purpose, or otherwise, all as provided in the Indenture or in any Supplemental Indenture;

(b) Any and all property of every kind and nature (including, without limitation, cash, obligations or securities) which may from time to time hereafter be assigned, hypothecated, endorsed, pledged, granted, or delivered to or deposited with the Trustee by the Issuer or anyone on its behalf, or which pursuant to any of the provisions of the Indenture may come into the possession or control of the Trustee as security under the Indenture, or of a receiver lawfully appointed under the Indenture, including, but not limited to, any Related Financial Transaction (provided, however, that the Issuer's interest with respect

to a Related Financial Transaction and the Revenues derived therefrom shall be part of the Trust Estate only in respect of the Series of Bonds to which such Related Financial Transaction relates), all of which the Trustee is authorized to receive, hold and apply according to the terms of the Indenture;

(c) All right, title and interest of the Association now owned or hereafter acquired in the Project Financing Agreement (including its rights in the Comprehensive Agreement, the Design-Build Contract and certain rights assigned by the Department under the Completion Guarantee), the Guaranty of Contractor Loan Agreement, the Completion Guarantee, the SIB Loan Agreement and the other Project Agreements to which the Association is a party or of which it is a beneficiary; and

(d) Proceeds of the foregoing.

Utility or **utility** means a public, private, cooperative, municipal and/or government line, facility or system used for the carriage, transmission and/or distribution of cable television, electric power, telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, sewage, storm water not connected with the highway drainage and similar substances that directly or indirectly serve the public. The term "Utility" specifically excludes (a) storm water lines connected with the highway drainage, and (b) traffic signals, street lights, and electrical systems for roadways.

Utility Owner or **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 Relocation means the removal, relocation and/or protection in place (including provision of temporary services as necessary) of any and all utility facilities that have to be removed, relocated and/or protected in place in order to permit construction of the Project.

Warranties means the warranties made by Contractor in Article 11 of the Design-Build Contract.

Work means all of the administrative, design, engineering, real property acquisition support services, Utility Relocation, procurement, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, maintenance, documentation and other duties and services to be furnished and provided by Contractor as required by the Contract Documents, including all efforts necessary or appropriate to achieve Final Acceptance except for those efforts which such Contract Documents specify will be performed by Persons other than a Contractor Party.

Working Drawings means drawings needed to show things associated with the construction of something to be constructed, but which will not be part of the permanent construction, e.g. formwork.

Work Product means all the data, information, documentation and other work product produced, prepared, obtained or deliverable by or on behalf of any Contractor Party or the Association and in any way related to the Project or Project Right of Way, including but not limited to Shop Drawings, Working Drawings, Draft Plans and Specifications, Plans and Specifications, record and as-built plans and specifications, engineering documents, geotechnical soils and soil boring data, analyses, reports and records, the Right of Way Plan, property acquisition files, agreements and documents (including records of payment and related correspondence, title policies, parcel diaries and all documents described in Section 6.4.2 of the Design-Build Contract), engineers' and inspectors' diaries and reports, utility relocation plans and agreements, right of way record maps and surveys, Traffic and Revenue Studies, and other feasibility data, analyses, studies and reports, correspondence and memoranda relevant to design or construction decisions, contracting plans, air quality monitoring data, environmental reviews, studies and reports, mitigation studies and reports, data, assessments, studies and reports regarding Hazardous Substance investigations, testings, borings, monitoring and analyses, manifests regarding handling, storage or transportation of Hazardous Substances, correspondence and agreements relating to Regulatory Approvals, Change Orders, final quantities, pile driving records, records of accidents and traffic management, field test records and reports, concrete pour records, surfacing depth check records, grade and alignment books, cross-section notes, drainage notes, photographs, false work and form plans, records of construction materials, Toll Equipment and Toll Facilities records and reports, and any other documents which can be reasonably described as technical or engineering documents. Work Product expressly excludes, however, documents and information which Contractor or Association (as the case may be) and Department mutually agree in writing, or which a court determines, to be exempted or protected from public disclosure under Section 18.2 of the Comprehensive Agreement and which is not conceived or first reduced to practice for Project Purposes, such as but not limited to the EPD and other proprietary financial and pricing information of Contractor.

BRIDGE FOUNDATION WORK – UNIT PRICES

I-895 Foundation Costs

James River Bridge

West Approach	Units	Unit Cost
Concrete, abutment footing	CM	$310.00
Concrete, pier footing	CM	$310.00
Rebar, abutment footing	KG	$1.23
Rebar, pier footing	KG	$1.23
Steel Piles (360 mm)	M	$104.00
Driving test, steel piles (360 mm)	M	$185.00
Pile points, steel piles (360 mm)	EA	$105.00
Dynamic pile test	EA	$3,100.00
Excavation	CM	$19.00

River Crossing	Units	Unit Cost
Concrete, pier footing	CM	$225.00
Rebar, pier footing	KG	$1.23
Drilled shafts, 1.83M dia	M	$2,470.00
Drilled shafts, 2.44M dia	M	$5,220.00
Drilled shaft load test	EA	$157,500.00
Steel sheet piling	SM	$165.00
Excavation	CM	$38.50

East Approach	Units	Unit Cost
Concrete, abutment footing	CM	$310.00
Concrete, pier footing	CM	$310.00
Rebar, abutment footing	KG	$1.23
Rebar, pier footing	KG	$1.23
Steel Piles (310 mm)	M	$74.00
Driving test, steel piles (310 mm)	M	$95.00
Pile points, steel piles (310 mm)	EA	$95.00
Steel Piles (360 mm)	M	$85.00
Driving test, steel piles (360 mm)	M	$140.00
Pile points, steel piles (360 mm)	EA	$105.00
Dynamic pile test	EA	$3,100.00
Excavation	CM	$19.00

Ramp E	Units	Unit Cost
Concrete, abutment footing	CM	$300.00
Concrete, pier footing	CM	$300.00
Rebar, abutment footing	KG	$1.23
Rebar, pier footing	KG	$1.23
Steel Piles (310 mm)	M	$96.00
Driving test, steel piles (310 mm)	M	$150.00
Pile points, steel piles (310 mm)	EA	$95.00
Steel Piles (360 mm)	M	$136.00
Driving test, steel piles (360 mm)	M	$205.00
Pile points, steel piles (360 mm)	EA	$105.00
Dynamic pile test	EA	$3,100.00
Excavation	CM	$19.00

Ramp G	Units	Unit Cost
Concrete, abutment footing	CM	$300.00
Concrete, pier footing	CM	$300.00
Rebar, abutment footing	KG	$1.23
Rebar, pier footing	KG	$1.23
Steel Piles (310 mm)	M	$159.00
Driving test, steel piles (310 mm)	M	$184.00
Pile points, steel piles (310 mm)	EA	$95.00
Steel Piles (360 mm)	M	$170.00
Driving test, steel piles (360 mm)	M	$282.00
Pile points, steel piles (360 mm)	EA	$105.00
Dynamic pile test	EA	$3,100.00
Excavation	CM	$19.00

Ramp H	Units	Unit Cost
Concrete, abutment footing	CM	$300.00
Concrete, pier footing	CM	$300.00
Rebar, abutment footing	KG	$1.23
Rebar, pier footing	KG	$1.23
Steel Piles (310 mm)	M	$100.00
Driving test, steel piles (310 mm)	M	$145.00
Pile points, steel piles (310 mm)	EA	$86.00
Steel Piles (360 mm)	M	$115.00
Driving test, steel piles (360 mm)	M	$185.00
Pile points, steel piles (360 mm)	EA	$105.00
Dynamic pile test	EA	$3,100.00
Excavation	CM	$19.00

JRB and Approaches - Changes from 14 August

Concrete	CM	$300.00
Rebar	KG	$1.23
Steel Piles (360 mm) West	M	$104.00
Steel Piles (360 mm) East	M	$85.00
Pile points, steel piles (360 mm)	EA	$105.00
Excavation	CM	$19.00

Ramps - Changes from 13/14 August 1997

Concrete	CM	$300.00
Rebar	KG	$1.23
Steel Piles (360 mm)	M	$136.00
Driving test, steel piles (360 mm)	M	$205.00
Pile points, steel piles (360 mm)	EA	$105.00
Excavation	CM	$19.00

Small Structures

Mill Road over I-895	Units	Unit Cost
Concrete, footing	CM	$285.00
Rebar, footing	KG	$1.02
Steel Piles (310 mm)	M	$89.00
Driving test, steel piles (310 mm)	M	$100.00
Pile points, steel piles (310 mm)	EA	$110.00
Excavation	CM	$38.00

Osborne Turnpike over I-895	Units	Unit Cost
Concrete, footing	CM	$285.00
Rebar, footing	KG	$1.02
Steel Piles (310 mm)	M	$89.00
Driving test, steel piles (310 mm)	M	$100.00
Pile points, steel piles (310 mm)	EA	$110.00
Excavation	CM	$38.00

Ramp D over Cornelius Creek	Units	Unit Cost
Concrete, footing	CM	$285.00
Rebar, footing	KG	$1.02
Steel Piles (310 mm)	M	$89.00
Driving test, steel piles (310 mm)	M	$100.00
Pile points, steel piles (310 mm)	EA	$110.00
Excavation	CM	$38.00

Laburnum Ave over I-895	Units	Unit Cost
Concrete, footing	CM	$285.00
Rebar, footing	KG	$1.02
Steel Piles (310 mm)	M	$89.00
Driving test, steel piles (310 mm)	M	$100.00
Pile points, steel piles (310 mm)	EA	$110.00
Excavation	CM	$38.00

I-895 EBL over Cornelius Creek	Units	Unit Cost
Concrete, footing	CM	$285.00
Rebar, footing	KG	$1.02
Steel Piles (310 mm)	M	$89.00
Driving test, steel piles (310 mm)	M	$100.00
Pile points, steel piles (310 mm)	EA	$110.00
Excavation	CM	$38.00

I-895 WBL over Cornelius Creek	Units	Unit Cost
Concrete, footing	CM	$285.00
Rebar, footing	KG	$1.02
Steel Piles (310 mm)	M	$89.00
Driving test, steel piles (310 mm)	M	$100.00
Pile points, steel piles (310 mm)	EA	$110.00
Excavation	CM	$38.00

Route 150 over CSX Railroad	Units	Unit Cost
Concrete, footing	CM	$374.00
Rebar, footing	KG	$1.26
Steel Piles (250 mm)	M	$86.00
Driving test, steel piles (250 mm)	M	$100.00
Pile points, steel piles (250 mm)	EA	$100.00
Excavation	CM	$75.00

Route 5 over I-885	Units	Unit Cost
Concrete, footing	CM	$342.00
Rebar, footing	KG	$1.03
Steel Piles (360 mm)	M	$123.00
Driving test, steel piles (360 mm)	M	$140.00
Pile points, steel piles (360) mm)	EA	$120.00
Excavation	CM	$43.00
Pile Splice (360 mm)	EA	$150.00

Wilson Road over I-895	Units	Unit Cost
Concrete, footing	CM	$342.00
Rebar, footing	KG	$1.03
Steel Piles (360 mm)	M	$123.00
Driving test, steel piles (360 mm)	M	$140.00
Pile points, steel piles (360) mm)	EA	$120.00
Excavation	CM	$43.00
Pile Splice (360 mm)	EA	$150.00

I-895 over Darbytown Road	Units	Unit Cost
Concrete, footing	CM	$342.00
Rebar, footing	KG	$1.03
Steel Piles (360 mm)	M	$123.00
Driving test, steel piles (360 mm)	M	$140.00
Pile points, steel piles (360) mm)	EA	$120.00
Excavation	CM	$43.00
Pile Splice (360 mm)	EA	$150.00

I-895 over Manahan Road	Units	Unit Cost
Concrete, footing	CM	$342.00
Rebar, footing	KG	$1.03
Steel Piles (360 mm)	M	$123.00
Driving test, steel piles (360 mm)	M	$140.00
Pile points, steel piles (360) mm)	EA	$120.00
Excavation	CM	$43.00
Pile Splice (360 mm)	EA	$150.00

Loop B over I-295	Units	Unit Cost
Concrete, footing	CM	$342.00
Rebar, footing	KG	$1.03
Steel Piles (360 mm)	M	$123.00
Driving test, steel piles (360 mm)	M	$140.00
Pile points, steel piles (360) mm)	EA	$120.00
Excavation	CM	$43.00
Pile Splice (360 mm)	EA	$150.00

FORM OF DRAW REQUEST AND CERTIFICATE

DRAW REQUEST AND CERTIFICATE

DRAW REQUEST NO.:_____
CERTIFICATE NO.:_____
DATE:_____

Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219
Attention: Project Manager, Route 895 Connector

Crestar Bank, Trustee
919 East Main Street
Richmond, Virginia 23219
Attention: Ms. Kelly A. Pickerel

Pocahontas Parkway Association
Two James Center
1021 East Cary Street
Richmond, Virginia 23219
Attention: President

Ladies and Gentlemen:

FD/MK Limited Liability Company ("FD/MK"), submits this Draw Request and Certificate (the "Request") pursuant to Section 14.2.3 of the Design-Build Contract dated as of June 3, 1998 (the "Design-Build Contract") by and between FD/MK and the Virginia Department of Transportation ("Department") and subsection 5 of Section 503 of the Master Indenture of Trust between Pocahontas Parkway Association and Crestar Bank as Trustee dated _____, 1998 (the "Master Indenture"). All capitalized terms used in this Request and not defined herein have the respective meanings given to such terms in Appendix A to the Design-Build Contract or otherwise given in the Design-Build Contract. Section numbers shown in this Request are the Section numbers of the Design-Build Contract unless expressly stated otherwise.

The undersigned officer of FD/MK has discussed all matters pertinent to this Request with appropriate officers, agents and employees of FD/MK and its subcontractors, and other parties to ensure the accuracy of this Request, and has made such other examinations and investigations as are necessary for purposes of ascertaining the truth of the statements contained in this Request.

On the basis of the foregoing, the undersigned hereby (1) requests the Trustee to issue and validate checks or other orders drawn on the Construction Fund in the amounts shown on Attachment 1 hereto to the Persons indicated therein and to mail, wire transfer or otherwise

deliver each such order to such Persons in accordance with the instructions set forth in Attachment 1, and (2) certifies, warrants and represents on behalf of FD/MK as follows:

A. Amount of Request.

Line	Item	Reference	Amount
1	Amount for Work performed since last Request:		
2	From Fixed Price Amount (net of previously invoiced, lost material)	14.1.1; 14.2.8.7.4	$
3	From ROW/Utility Allowance	14.1.2	
4	From Bridge Foundation Account		
5	For Bridge Foundation Work	14.1.3.2	
6	For Reimbursable Site Work (net of portion payable from Bridge Foundation Advance)	14.6; 14.6.3	
7	From Oversight Budget	5.2.3	
8	From Contingency		
9A	For Project Right of Way Work	14.1.2.5	
9B	For Utility Relocations Work	14.1.2.5	
10	For ETTM System Work	2.3.1	
11	For Department Oversight Services	5.2.3	
12	For Safety Directed Changes (estimated)	19.3.3.1	
13	For Change Orders/Directive Letters regarding Reimbursable Site Work	19.4.1.2(e)ii	
14	For Change Orders due to non-particular strikes or Utility Owner delay	19.4.1.2(d)	
15	For other Change Orders	19.4.1.2(c)	
16	From Department for Discretionary Directed Changes (estimated)	19.3.3.2	
17	Total amount of Work performed since last Request:		$
18	Adjustments and deductions:		
19	Discretionary Directed Changes payable by Dept	19.3.3.2	( )
20	Change Order Work due to non-particular strikes or Utility Owner delay prior to Final Acceptance	19.4.1.2(d)	( )
21	30% of Reimbursable Site Work performed prior to completion of Bridge Foundation Work	14.6.1	( )
22	Retainage	14.2.6.1	( )
23	Liquidated Damages claimed by Department	14.4; 25.6.1.1	( )
24	Liquidated Damages claimed by Association	14.4; 25.6.1.2	( )
25	Department costs	14.2.7(b); 11.1.3; 25.2.4	( )
26	Other Department deductions under Contract Documents	14.2.7(c)	( )
27	Net amount of Request to Trustee		$

B. Draw from Series 1998D Bond Proceeds Account. The portion of the net amount of this Request representing Non-Construction Costs of the Project eligible and to be drawn for payment from the Series 1998D Bond Proceeds Account in accordance with subsection 3 of Section 502 of the Master Indenture is $_____.

C. Payment and Payees.

1. The Costs of the Project to be paid pursuant to this Request, broken down by payee and the amount for each such payee, together with instructions regarding the method of payment and all appropriate information relating thereto, are as set forth in Attachment 1 to this Request . True and complete copies of the requisition and/or invoice of each such payee are attached hereto as part of Attachment 2 to this Request.

2. All Costs of the Project itemized in Attachments 1 and 2 are now due and payable or are due and payable within 30 days of the date of this Request; and no prior Request or draw has been made or applied to pay such Costs of the Project.

3. The Work for which payment is requested under this Request has been performed and delivered; and the payments to FD/MK and its Subcontractors requested in this Request include only those costs and charges for which FD/MK is entitled to payment at this time under the terms and conditions of the Design-Build Contract.

4. The aggregate amount of all previous draws, if any, paid to FD/MK or its Subcontractors have been applied only to the payment of Costs of the Project heretofore incurred as specified in the Design-Build Contract.

5. If any amount is shown for item A, line 23, 25 or 26 above, Trustee is directed to pay the amount shown directly to the Department. If any amount is shown for item A. line 24 above, Trustee is directed to deposit the amount shown into the Revenue Fund.

D. Certain Calculations.

1. Reimbursable Site Work. The amount requested from the Contingency for Reimbursable Site Work has been calculated in accordance with Sections 14.6.1 and 14.6.2. If this Request shows any amount payable from the Bridge Foundation Account for Reimbursable Site Work, FD/MK certifies and represents that the Bridge Foundation Work is complete.

2. Retainage. The amount of Retainage set forth in item A, line 22 above has been calculated in accordance with Section 14.2.6.1.

3. Liquidated Damages. The amount of Liquidated Damages set forth in item A, lines 23 and 24 above has been calculated in accordance with Sections 25.6.1.1 and 25.6.1.2.

4. ETTM System. The cumulative cost (including any amount requested under this Request) of the ETTM System Work referenced in Section 2.3.1 is $_____.

E. Percentage Completion.

1. The cumulative amount of all prior Requests and this Request drawing against the Fixed Price Amount portion of the Contract Price is $_____, representing _____ percent (____%) of the total Fixed Price Amount portion of the Contract Price.

2. The foregoing percentage of the Fixed Price Amount portion of the Contract Price requisitioned in all prior Requests and this Request does not exceed the percentage of the Work completed.

F. Financing Balance.

1. To the best knowledge of FD/MK, as of the end of the month for which this Request is submitted (check appropriate box):

☐ the Available Construction Fund Amount is sufficient to pay the Total Remaining Costs of the Project.

☐ the Total Remaining Costs of the Project exceed the Available Construction Fund Amount by $_____.

2. The foregoing certification is based on (a) our calculation of a current Available Construction Fund Amount equal to $_____, which calculation is made in reliance on (i) information most recently provided to us by the Trustee with respect to certain fund balances and with respect to unfunded portions of binding commitments issued by the Department to purchase Extraordinary Completion Bonds and (ii) information provided to us by others regarding interest rates under the investment contracts by which unexpended funds in the Construction Fund are invested, (b) our good faith estimate of the rate of future draws against the Construction Fund and (c) the following calculation of Total Remaining Costs of the Project. Our calculation of the Available Construction Fund Amount is made as an accommodation and without any fiduciary duty to the Bond Owners, which is hereby disclaimed.

3. To the best knowledge of FD/MK, the Total Remaining Costs of the Project and the sufficiency or insufficiency of funds to pay the same are as follows:

Line	Item	Amount
1	Amount of draw under this Request:	--
2	Net amount of this Request (item A, line 27 above)	$
3	Sum of amounts payable to Department under item A, lines 23, 25 and 26 of this Request	
4	Amount to be deposited in Revenue Fund under item A, line 24 of this Request	
5	Total (sum of lines 2, 3 and 4)	
6	Remaining Costs of the Project (excluding costs of (i) approved, anticipated and disputed Discretionary Directed Changes, (ii) non-particular strikes and (iii) Utility Owner delay):	--
7	Cost of remaining Work payable from Fixed Price Amount	
8	Unpaid Retainage	
9A	Cost of remaining Project Right of Way Work	
9B	Cost of remaining Utility Relocations Work	

10	Cost of remaining ETTM System Work (payable from the Contingency)	
11	Cost of remaining Bridge Foundation Work	
12	Cost of remaining Department Oversight Services	
13	Cost of remaining Work under pending, approved and disputed Change Orders, Requests for Changes and RFC Notices	
14	Sum of unpaid 30% adjustments for Reimbursable Site Work under this and all prior Requests	
15	Total (sum of lines 7 through 14)	$
16	Total Remaining Costs of the Project (sum of lines 5 and 15)	$
17	Sufficiency (Insufficiency) (Available Construction Fund Amount minus line 16)	$

G. Status of Project Budget

The status of the Project budget under the Design-Build Contract is as follows:

PROJECT BUDGET CATEGORY	INITIAL AMOUNT	AMOUNT OF THIS REQUEST*	TOTAL REQUESTS TO DATE*	AMOUNT REMAINING
Fixed Price Amount	$251,809,520			
Minus transfers to Contingency (14.3.4)	---	( )	( )	
Bridge Foundation Account	36,299,141			
ROW/Utility Allowance	14,000,000			
Oversight Budget	630,000			
Contingency	15,000,000			
Plus transfers from Fixed Price Amount (14.3.4)				
Total	$317,738,661			

*Excluding costs of (i) approved, anticipated and disputed Discretionary Directed Changes, (ii) non-particular strikes and (iii) utility owner delay, unless this is a Request for final payment following Final Acceptance Date.

H. Status of Contract and Contract Performance

1. The expected date of Substantial Completion of the Project is _____, which is (check appropriate boxes):

☐ not later than the Scheduled Completion Date
☐ _____ days after the Scheduled Completion Date; and

☐ not later than the Guaranteed Completion Date
☐ _____ days after the Guaranteed Completion Date.

2. As of the date of this Request, the Department claims it is responsible for payments under Section 19.3.3.3 for not more than ___ days by reason of Discretionary Directed Changes.

3. The Project is being built in accordance with the Scope of Work and the Contract Documents, and in compliance with all Laws, Regulations and Ordinances in effect at the time of performance of the relevant Work.

4. All Regulatory Approvals required for the construction of the Project and opening of the Project for normal use and operations either:

a. have been obtained and remain in full force and effect and are not subject to any appeals or further proceedings or to any unsatisfied conditions that may allow material modification or revocation; or

b. with respect to Regulatory Approvals required for construction or opening for normal use and operations and not yet obtained, such Regulatory Approvals could not be reasonably obtained before the date hereof and FD/MK has no reason to believe that such Regulatory Approvals will not be granted in due course prior to the date that such Regulatory Approvals are required in connection with the construction of the Project or opening of the Project for normal use and operations.

5. FD/MK has obtained all Subcontractor's and manufacturer's representations, warranties, guaranties and obligations required to be obtained by FD/MK under Sections 11.3 and 12.7(b) and (d) with respect to all Work performed and materials and equipment procured to date under the Design-Build Contract.

6. All insurance policies and coverages required under Article 22 of the Design-Build Contract are in full force and effect.

7. No Event of Default under the Design-Build Contract, no FD/MK Default under the Comprehensive Agreement, and no default by FD/MK, FC or MKC under any other Project Agreement exists on the date of this Request or shall occur as a result of the making of the draw to which this Request relates.

8. All representations and warranties of FD/MK, FC and MKC contained in the Design-Build Contract, the Comprehensive Agreement or any of the other Project Agreements in effect on the date hereof are true and correct in all material respects on and as of the date hereof (except for such representations or warranties that by their terms relate solely to a specific prior date) with the same effect as if made on and as of the date hereof.

9. The Design-Build Contract and each of the other Project Agreements executed on or prior to the date hereof and to which FD/MK, FC or MKC is a party is in full force and effect as of the date hereof (or, in the case of the first Request, will be in effect on the date of the draw

thereunder), each without amendment or modification except in accordance with the terms thereof and of the Design-Build Contract.

10. All amounts drawn hereunder are for Costs of the Project and no such amounts are for working capital for the Association.

I. Documentation and Conditions of Request.

1. This Request is accompanied by all documents as are required to be delivered by FD/MK pursuant to Sections 14.2.2 and 14.2.3 (and not previously delivered).

2. The information in all documents and supporting papers prepared by FD/MK, and, to the best knowledge of the FD/MK, its subcontractors, and submitted to the Department in connection with this Request is true, correct and complete.

3. The conditions to draw under this Request set forth in the Master Indenture and SIB Loan Agreement have been satisfied or waived in accordance with the terms of the Master Indenture and SIB Loan Agreement.

J. Authority; Continuation of Certifications.

1. The undersigned has the authority to deliver this Request on behalf of FD/MK.

2. The Department, Trustee and Association may assume that the matters certified herein remain true from and after the date hereof through the date of the draw to which this Request relates unless the undersigned shall have delivered to Department, Trustee and Association a certificate as to any change in any of such matters, which the undersigned hereby agrees to give promptly after obtaining knowledge thereof.

IN WITNESS WHEREOF, the undersigned has caused this Request to be executed by its duly authorized officer on the date first above written.

FD/MK LIMITED LIABILITY COMPANY

By:_____
Name:_____
Title:_____

APPROVED FOR PAYMENT IN ACCORDANCE
WITH PAYMENT INSTRUCTIONS HEREIN:

_____
Name: _____
Title: Authorized Department Representative

ATTACHMENT 1 TO DRAW REQUEST AND CERTIFICATE

Payment Instructions

NAME AND ADDRESS OF PAYEE	PAYMENT INSTRUCTIONS	AMOUNT (less Retainage, Adjustments and Deductions)
FD/MK Limited Liability Company [insert address]	[e.g. Wire to: _____]	$
Virginia Department of Transportation [insert address]	[e.g. Wire to: _____]	
[Others, e.g. escrow holders for ROW acquisitions; court clerks for ROW condemnations; Utility Owners for Utility Relocations]		
Total Invoice		$

ATTACHMENT 2 TO DRAW REQUEST AND CERTIFICATE

Invoices for Costs of the Project for the Route 895 Connector

[Attach, among other things, the following:

- FD/MK invoices in accordance with, and which describe status of completion as it relates to, CPM/Payment Schedule;
- FD/MK and Subcontractor certificates of receipt of all prior progress payments due (except for Retainage and disputed amounts);
- For Requests that include amounts payable on time and materials basis, all supporting documentation required under Section 19.7;
- For Requests that include amounts payable on unit price basis, invoices, receipts or other evidence establishing number of units delivered.]

PAYMENT BOND
(Route 895 Connector)

Know all men by these presents, that we, FD/MK Limited Liability Company, a Delaware limited liability company (hereinafter called the "Principal") and _____ (hereinafter called the "Surety"), are held and firmly bound unto the Virginia Department of Transportation, a department of the Commonwealth of Virginia (hereinafter called the "Owner") and Crestar Bank, a Virginia banking corporation (collectively, the "Obligee"), in the full and just sum of $288,108,661 lawful money of the United States of America, to be paid to the Obligee, its successor and assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally and firmly by these presents:

Whereas, the Principal has entered into a certain Design-Build Contract dated as of June 3, 1998, with the Owner (the "Contract"), which Contract is incorporated by reference herein; and

Whereas, it is one of the conditions of the Contract that these presents shall be executed.

Now, therefore, the condition of this obligation is such that if the Principal shall promptly pay all just claims for labor and material (including public utility services and reasonable rental of equipment when such equipment is actually used at the site) performed for or supplied to the Principal or any Subcontractor in the prosecution of the work contracted for, then this obligation is to be void; otherwise, to be and remain in full force and virtue in law.

No alteration, modification or supplement to the terms of the Contract or any Subcontract or the nature or the work to be performed thereunder, including any extension of time for performance, shall in any way affect the obligations of the Surety. The Surety waives notice of any alteration, modification, supplement or extension of time.

The Principal and Surety shall not be liable under this bond to the Obligee in the aggregate in excess of the penal sum stated above.

Witness, the signature of the Principal and the signature of the Surety and their corporate seals duly attached hereunto affixed this _____, 19__.

FD/MK Limited Liability Company, a Delaware limited liability company	_____ (Surety Company)
By:_____ (SEAL)	By: _____ (SEAL)
Title:_____	Title: _____
_____ (Address)	_____ (Address)

[*Add appropriate acknowledgments*]

PERFORMANCE BOND
(Route 895 Connector)

Know all men by these presents, that we, _____ [*Subcontractor*] (hereinafter called the "Principal") and _____ (hereinafter called the "Surety"), are held and firmly bound unto the Virginia Department of Transportation, a department of the Commonwealth of Virginia (hereinafter called the "Owner"), FD/MK Limited Liability Company, a Delaware limited liability company (hereinafter called "FD/MK") and Crestar Bank, a Virginia banking corporation (collectively, the "Obligee"), in the full and just sum of $_____[*100% of Subcontract price*] lawful money of the United States of America, to be paid to the Obligee, its successor and assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally and firmly by these presents:

Whereas, FD/MK has entered into a certain Design-Build Contract dated as of June 3, 1998, with the Owner (the "Contract");

Whereas, the Principal has entered into a certain subcontract under the Contract dated as of _____, with FD/MK (the "Subcontract"), which Subcontract is incorporated by reference herein; and

Whereas, it is one of the conditions of the Subcontract that these presents shall be executed.

Now, therefore, the condition of this obligation is such that if the Principal shall in all respects comply with the terms and conditions of the Subcontract and its obligations thereunder, including any and all amendments and supplements thereto, and shall indemnify and save harmless each Obligee against or from all costs, expenses, damages, injury or loss to which the Obligee may be subjected by reason of any wrongdoing, misconduct, want of care or skill, negligence or default, including patent infringement, delay or failure to comply with Contract provisions, on the part of the Principal, its agents or employees, in the execution or performance of the Contract, and shall pay all just claims for damages and injury to property then this obligation to be void; otherwise, to be and remain in full force and virtue in law.

No alteration, modification or supplement to the terms of the Subcontract or Contract or the nature or the work to be performed thereunder, including any extension of time for performance, shall in any way affect the obligations of the Surety. The Surety waives notice of any alteration, modification, supplement or extension of time.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee or the heirs, executors, administrators, successors or assigns of the Obligee.

The Principal and Surety shall not be liable to the Obligee or any of them if the Obligee or any of them has materially defaulted under their payment obligations to the Principal under the terms of the Contract.

The Principal and Surety shall not be liable under this bond to the Obligee in the aggregate in excess of the penal sum stated above.

Witness, the signature of the Principal and the signature of the Surety and their corporate seals duly attached hereunto affixed this _____, 19__.

_____	_____
(Subcontractor)	(Surety Company)
By:_____	By: _____
(SEAL)	(SEAL)
Title:_____	Title: _____
_____	_____
(Address)	(Address)

[*Add appropriate acknowledgments*]

SCOPE OF WORK

PROJECT SCOPE - 895

June 2, 1998

Introduction:

The purpose of this document is to describe the scope and standard of services to be provided by FD/MK in the design and construction of Route 895 as proposed under the authority of the Virginia Public Private Transportation Act of 1995. The roadway shall begin generally at the existing I-95/Route 150 interchange in Chesterfield County, span the James River and terminate in Henrico County at I-295. As the design basis for project engineering and construction, the project will adhere to the geometry and standards set in the Preliminary Designs indicated by the plans dated January 30, 1998, attached. Any changes from the Preliminary Design shall be approved by the Chief Engineer, under article 19 of the Design- Build Contract.

Standards:

Work under this agreement will be in accordance with the following documents, which are incorporated by reference to this project scope.

AASHTO A Policy on Geometric Design of Highways and Streets, 1994 edition
AASHTO An information Guide for Roadway Lighting
AASHTO Guide for Design of Pavement Structures (Rigid Pavement)
AASHTO Guide Specifications for Distribution of Loads for Highway Bridges, 1994 edition
AASHTO Guide Specifications for Horizontally Curved Highway Bridges, 1993 edition
AASHTO Standard Specifications for Highway Bridges, Sixteenth Edition, 1996 w/VDOT Modifications
AASHTO Standard Specifications for Structural Supports for Highway Signs, Luminaries, and Traffic Signals. 1994 edition
Americans with Disabilities Act Accessibility Guidelines for State and Local Government Facilities
American Water Works Association Standards
FHWA Roadway Lighting Handbook
Transportation Research Board Highway Capacity Manual, Third Edition, 1994
USDOT Manual on Uniform Traffic Control Devices, 1988 edition
VDOT Drainage Manual, 1980 edition
VDOT Manual of Practice for Planning Stormwater Management, January 1992 Edition
VDOT Metric Road and Bridge Specifications, January 1997 Edition
VDOT Road and Bridge Standards, Volumes I and II, 1996 Edition
VDOT Road Design Manual, Volumes I and II, 1996 Edition
Virginia Erosion and Sediment Control Handbook, Third Edition, 1992
Virginia Uniform Statewide Building Code, 1997 Edition
Virginia Work Area Protection Manual, January 1, 1996 Edition
VDOT Post Construction Manual 1997 Edition
VDOT Hauling Permit Manual 1996 Edition
AASHTO Fracture Critical Non-Redundant Steel Bridge Members Current Spec. w/ all Interim's
AASHTO "Guide Spec.'s for Design and Construction of Segmental Concrete Bridges" 1989 w/ Interim's
AASHTO "Guide Spec.'s and Commentary for Vessel Collision Design of Highway Bridges, 1991
AASHTO LRFD Design Specifications, 1999
AASHTO "Guide Spec.'s for Thermal Effects in Concrete Bridges Superstructures" w/ Interim's
Construction and Professional Services Manual (Department of General Services)
VDOT Construction Manual, 1996 Version
VDOT Manual of Instruction Materials Division, 1995 Version
VDOT Phase Inspection, 1983 Version

Specific design criteria shall be the design criteria set forth in VDOT design contracts 0895-020-F01,PE101,C501,B601 and 8095-043-F01,PE101,C502 (Site - Blauvelt Engineers Inc. as primary consultant and 0895-043-F01,PE101, C501 (Sverdrup Civil, Inc. as primary consultant).

Description:

The facility includes the following:

A. ROUTE 150/ROUTE I-95 INTERCHANGE

The facility begins and ties directly to Route 150 near the Route 150/Route 1 interchange and will initially provide the same number of traffic lanes and configuration. Route 895 proceeds easterly, crossing over and having access to Route I-95. The existing ramps from east bound Route 150 to north and south bound Route I-95 to west bound Route 150 are retained. All existing ramps and loops on Route 150 from and to Route 1 are also retained.

The proposed access ramps between Route 895 and Route I-95 are Ramp E, from north bound Route I-95 to east bound Route 895; Ramp F, from south bound Route I-95 to east bound Route 895; Ramp G, from west bound Route 895 to south bound Route I-95; and Ramp H, from west bound Route 895 to north bound Route I-95. All ramps are single lane ramps.

Ramp F is not part of this Scope of Work but is anticipated to be built in the future at such time that traffic demands warrant. The design and construction of the Project shall be consistent with the construction of Ramp F when traffic density warrants.

The foundations for all bridge piers for these ramps will be on driven steel pile with at grade concrete pile caps. The ramp bridge superstructures shall be steel plate girders on curved ramps and pre-cast segmental concrete box girders on all others. All bridge decks shall be concrete.

B. WEST APPROACH

The mainline Route 895 west approach to the Route I-95 interchange will provide eight lanes (four each direction providing three through lanes each direction plus one lane for acceleration/deceleration at ramp termini) and have two parallel bridges carrying three lanes each over the CSX Railroad. All bridge pier foundations will be on driven pile with at grade concrete pile caps. The bridge will begin at station 9+07 and the superstructure will be precast segmental concrete sections.

C. ROUTE I-95 CROSSING

Route 895 over Route I-95 will provide six lanes (three each direction) on two parallel bridges carrying three lanes each. All bridge pier foundations will be on driven steel pile with at grade, concrete pile caps. The superstructure will be precast segmental concrete sections.

D. JAMES RIVER BRIDGE

Route 895 over the James River will provide eight lanes (four each direction providing three through lanes each direction plus one lane for acceleration/deceleration at ramp termini) supported on two parallel structures each carrying four lanes. The bridge pier foundations will be provided by drilled concrete caissons. An approximate total bridge length of 440 meters over three spans and for EBL Route 895 and bridge lengths of approximately 527 meters over four spans for WBL Route 895 will provide a minimum vertical clearance of 44.2 meters (145 feet) over the James River mean high tide water elevation and provide a minimum horizontal clearance of 91.44 meters(300 feet) of clear channel. The superstructure will be cast-in-place segmental concrete sections.

E. EAST APPROACH

Route 895 will continue on the east approach as a six lane facility on structure to approximate Station 23+60 as shown on the January 30,1998 Preliminary Plans. From Station 23+60, Route 895 continues as a six lane facility to the Toll Plaza. All bridge pier foundations will be on driven steel piles with at grade concrete pile caps. The superstructure will be precast segmental concrete sections.

F. TOLL PLAZA

Initial construction will provide four lanes (two each direction) on Route 895 from the Toll Plaza Eastern transition to the Route 5/Laburnum Avenue interchange. The median lanes in each direction will be reserved for construction until such time as the traffic demand warrants. All design and construction shall be consistent with the addition of these lanes in the future. Toll Plaza design including lane widths and clearances must be equal to meet the standards of similar facilities in service locally.

The Toll Plaza will begin at approximate Station 27+00 and end at approximate Station 13+60. East bound lanes through the toll plaza shall consist of two automatic vehicle identification (AVI) lanes carrying traffic directly through the toll plaza. These two lanes shall be the two inside lanes. Three lanes, serviced with manned toll booth, with access via tunnel from an administrative area, will consist of the three outside lanes on the toll facility. Both AVI and standard lanes shall be oriented so as to be consistent with expansion of one lane each. The West bound lanes through the toll plaza shall mirror the east bound lanes. Tunnel servicing the toll plaza shall lead from the basement of an Administration Building to service the manned toll booths via stairways. The tunnel shall carry utilities, provide ventilation and safe access to the toll plaza for personnel and movement of toll revenues to secured facilities in the Administrative Building.

Administrative building of approximately 6,000 square feet shall have facilities meeting standard industry requirements to provide for the efficient handling, secured storage, and accounting of revenues, communication with regional automated toll systems, and adequate space for supervisory personnel. Building and toll facility shall be equipped with an un-interruptible power supply system, emergency generator, and parking sized for the staff and 5 visitors. The Toll collection system shall have the same performance characteristics as the AVI system on VDOT's Local Toll both for electronic and non-electronic collection, such as the Powhite Parkway Fastoll System, as shown in Appendix E.

Overhead canopy shall consist of two canopies approximately 27' 11" by 89' 3" each.

G. ROADWAY AND ROUTE I-295 INTERCHANGE

From the Route 5/Laburnum Avenue interchange, Route 895 will continue as a four lane(2 lanes in each direction) facility (37.5 meters shoulder to shoulder with 2:1 safety slopes) to its terminus at the interchange of Route 895 and Route I-295. Ramps A and B will provide access from south and north bound Route 295 to west bound Route 895. Ramps C and D will provide access from east bound Route 895 to north and south bound Route I-295. All ramps shall be single lane.

The Scope of Work does not include Ramps A and D; however, the design shall include features which will serve to minimize costs of construction of these ramps when warranted. These ramps will be added at such time that traffic demand warrants. Design and construction shall be consistent with construction of these ramps when warranted.

H. LABURNUM INTERCHANGE

At the Route 5/Laburnum Avenue interchange, access to and from both east and west bound Route 895 will be provided via a four lane access road which will intersect at-grade in the southern quadrant of the intersection of Route 5 and Laburnum Avenue. At the at-grade intersection, two through lanes to Laburnum Avenue with left and right turn lanes into Route 5 will be provided with traffic signal control.

I. GRADE SEPARATION AND STREAM CROSSING STRUCTURES

Between the Toll Plaza and Route I-295, Route 895 will cross over Darbytown Road and Monahan Road. At both crossings the clearance under the overpass is to be sufficient to allow for an urban four lane roadway with raised median, bike lanes and sidewalks. Construction will maintain the operation of the two lane cross road at both locations.

Mill Road, Route 5 (New Market Road) and Willson Road will be bridged over Route 895 by a two lane

structure. Construction will maintain the operation of the two lane cross road at all locations.

Osborne Turnpike will be bridged over Route 895 by a four lane structure. Construction will maintain the operation of the two lane crossroads.

At all locations, any improvement or reconstruction of the cross road will be completed insuring compliance with current criteria, standards and specifications.

Yarnell Road and Britton Road will be terminated by cul-de-sacs on both sides of Route 895 with access to these roads maintained via other roads at all times.

The construction of Route 895 and cross roads shall generally conform to the design as depicted on the January 30, 1998 Preliminary Plans and provide all features and accesses as indicated thereon with the exception of those features named herein that have been itemized and approved for exclusion.

Grade separation structures shall be as shown on Figure 1

J. ULTIMATE DESIGN

The design and construction of the Project shall be consistent with those items described herein for construction at a later date (the "Ultimate Design") and shall not cause additional environmental consideration or permitting. The features which will not be initially constructed will be Ramp F, Ramp A, Ramp D, the fifth and sixth lanes between the toll plaza and Laburnum Avenue and the second lane of Ramp B and Ramp C.

Permits.

All permits and applications shall be the responsibility of FD/MK.

The project shall be designed and built under the requirements of, among other things, the Corps of Engineers permits authorized under Section 401/404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, Virginia Water Protection Permit from Department of Environmental Quality and a Virginia Pollutant Discharge Elimination System Permit (stormwater), and the Subaqueous Bed Permit from Virginia Marine Resources Commission. The Joint Permit Application shall delineate all of the wetland temporarily, adversely, or permanently impacted by construction of the project. Mitigation for the work shall be completed in accordance with the conditions of the Joint Permit. Initial construction shall be performed so as to require no further permit activities with the addition of future lanes, ramps and bridges as described in the full build alternative. The limit and extent of wetlands takes resulting from this Project are as shown in the approved permits, issued by the Corps of Engineers, Department of Environmental Quality and the Virginia Marine Resources Commission.

Right of Way.

The right of way to be acquired shall be sufficient to facilitate the full build design. No further right of way is to be required when construction of the full build facility is completed. Right of Way and Utilities to be performed in accordance with the Right of Way Acquisition Plan as developed by the parties and the Design-Build Contract.

Maintenance of Traffic

Maintenance of Traffic shall conform to the Plan as required by the Design- Build Contract and approved by the Chief Engineer and shown conceptually in the Preliminary Design. Variances to the Plan shall be requested by FD/MK and approved by the Sandston Resident Engineer. Documentation of the variance shall be maintained by FD/MK. Other than the lane restrictions approved as a part of the Plan as approved by the Residency, no temporary lane restrictions shall take place between the hours of 5:30 and 8:30 AM and 4:00 and 7:00 PM Monday through Friday.

No temporary lane restrictions shall take place between 12:00 noon on the Friday preceding and 12:00 noon the Tuesday following Memorial Day and Labor Day; or July 4 and Christmas Day if these holidays occur on Saturday or Sunday. No lane restrictions shall take place between 12:00 Noon Wednesday preceding and 12:00 noon the Monday following Thanksgiving Day. All activities related to the Project that have an impact on the traveling public shall be performed in accordance with the Construction Traffic Management Plan to be developed by FD/MK.

Temporary signage used during the construction of the project shall conform to the Manual of Uniform Traffic Control Devices.

Coordination with other VDOT construction efforts in the area shall be coordinated through the Sandston Residency. FD/MK shall adhere to the direction of the Residency.

The Construction Traffic Management Plan shall include an operational traffic analysis and proposed mitigation measures on the Project during the course of construction and their interface with the connecting and adjacent public transportation facilities and State Highways. The following information and relevant underlying assumptions shall be provided, as appropriate, for the peak a.m. and p.m. periods, for the transitional periods in which the operation of the Project changes from that in effect during the peak period operations and for non-peak, non-transitional operating periods:

(a) existing and projected volumes;

(b) ingress and egress locations;

(c) types of vehicles allowed or excluded from the project;

(d) weaving lengths under anticipated traffic flow patterns:

(e) the connections at each end of the Construction Segments;

(f) scheduling of temporary traffic diversions;

(g) enforcement areas and procedures;

(h) delays and queues;

(i) impact on public transit and HOV operations;

(j) public information, driver information plans and incident response; and

(k) provisions for construction worker safety.

The Construction Traffic Management Plan shall set forth standards and procedures for designating each Construction Segment and shall initially identify each Construction Segment. Contractor may from time to time change the designation of Construction Segments provided the change conforms to such standards and procedures and Department has approved the change in writing. Department shall not unreasonably withhold or delay its approval. Each such change shall become effective when Department and Contractor execute a written amendment or supplement to the Construction Traffic Management Plan setting forth such change.

Pavement

Typical pavement sections shall be as shown in Appendix B.

Signage and Lighting.

The main line and ramps in the I-95/895 interchange shall be lighted from the intersection with the existing grade of Route 150, through the toll plaza, to a point 300 meters east of the toll plaza. A duct bank system shall be provided throughout the length of the project sufficient for all coaxial and fiber optic cable which may be required in connection with operation of the full-build project. Cable shall be installed as required for operation of the Project.

Permanent Signs shall be a part of the Work under the Design - Build Contract to be furnished by FD/MK. This plan shall include directional and enforcement signs. The sign plans shall be approved by the Chief Engineer.

Construction Schedule.

Schedule of Construction shall be as described in Sections 13 and 17 of the Design-Build Contract.

Quality Assurance and Control Inspection Program shall be in accordance with Appendix C.

Plan preparation shall be accordance with Appendix D.

Appendices:

A - Preliminary Plans and Special Provisions (January 30, 1998).
B - Pavement Design and Geotechnical Data (January 30, 1998).
C - Quality Assurance and Control Inspection Program
D - Plan Preparation
E - ETTM Performance Specification (This is a general specification with final design to be approved by the Department.)

FIGURE 1

GRADE SEPARATION/STREAM CROSSING STRUCTURES - ROUTE 895

The dimensions and stations shown herein and on the Preliminary Design Plans dated January 30, 1998, and attached as a part of Appendix D are approximate and are subject to final design which is the responsibility of FD/MK.

Structure	Length (radial- meters)	Width (out-to-out meters)
0895-020-F01,PE101,C501		
B601-WBL Route 895 over I-95 and James River	1,453.0	Varies 15.42 to 22.62
Includes Ramp G	854.0	10.0
Includes Ramp H	722.0	10.0
AND		
B602-EBL Route 895 over I-95 and James River	1,453.0	Varies 15.42 to 22.62
Includes Ramp E	808.5	10.0
Plan Set 1 - Mainline Structures Sheets 1-127		
Plan Set 2 - Ramp Structures Sheets 1-69		
Special Provisions dated January 30,1998		
B603 - Route 150 over CSX RR Sheets 1-11	53.03	41.3
B604 - SBL I-95 over Falling Creek * Sheets 1-8	115.21	4.96 (Widened Portion)
B605-Ramp H over Esso Road * Sheets 1-9	6.35	10.0 (Widened Portion)
B606-Ramp H over Dupont Waterline Sheets 1-6	16.03	3.81 (Widened Portion)
0895-043-F01,PE101,C502		
B601-Mill Road over Route 895 Sheets 1-11	122.0	14.2
B602-Osborne Turnpike over Route 895 Sheets 1-11	100.0	21.4
B603-Ramp D over Cornelius Creek Sheets 1-12	66.0	10.0
B604-Laburnum Avenue over Route 895 Sheets 1-10	85.0	22.0

* THIS WORK WILL BE PERFORMED BY VDOT.

FIGURE 1
PAGE 2

Structure	Length (radial- meters)	Width (out-to-out meters)
B605-EBL Route 895 over Cornelius Creek Sheets 1-11	90.0	17.42
B606-WBL Route 895 over Cornelius Creek Sheets 1-14	90.0	Varies 13.6 to 26.33
0895-043-F01,PE101,C501		
B607-Route 5 (New Market Road) over Route 895 Sheets 1-10	53.23	15.4
B608-Willson Road over Route 895 Sheets 1-10	53.23	13.0
B609-WBL Route 895 over Darbytown Road AND	33.63	13.6
B615-EBL Route 895 over Darbytown Road Sheets 1-10	33.63	13.6
B616-EBL Route 895 over Monahan Road AND	33.83	13.6
B617-WBL Route 895 over Monahan Road Sheets 1-10	33.83	13.6
B612-Loop B over I-295 Sheets 1-10	87.24	10.6

APPENDIX A
PRELIMINARY PLANS AND SPECIAL PROVISIONS (JANUARY 30, 1998)

[Copies on file with Department, FD/MK and Association]

APPENDIX B
PAVEMENT DESIGN AND GEOTECHNICAL DATA

[Copies on file with Department, FD/MK and Association]

APPENDIX C

QUALITY ASSURANCE AND CONTROL INSPECTION PROGRAM

INTRODUCTION

QA MANAGER, an independent consultant to FD/MK, will be responsible for providing Quality Assurance and Control Inspection to monitor the ROUTE 895 construction activities for conformance with the approved Drawings, Specifications and related documents.

The Virginia Department of Transportation (VDOT) may provide quality assurance inspection during the life of the project, to verify conformance with VDOT's obligations under Design-Build Contract. The Corps of Engineers (COE), Chesterfield County, Henrico County, City of Richmond, and the Trustee and the various utility companies affected by ROUTE 895 may also occasionally provide spot inspection to review construction compliance with their respective contractual or legal requirements.

VDOT Standards and Specifications, including any project supplemental specifications specifically identified in The Contract Documents between VDOT and FD/MK, shall at all times govern the construction of this project. The QA MANAGER shall be the interpreter of these requirements unless otherwise directed by VDOT. The QA MANAGER shall certify that all construction has been placed in accordance with the approved plans and specifications.

To protect the interest of VDOT and the Bond Owners, as specified in the Design-Build Contract, a Quality Assurance and Control Inspection Program (QA/CIP) will be implemented to address and define inspection and reporting responsibilities. This Program is defined on the following pages and reflects the unique relationships among the parties involved in this Project.

ORGANIZATION AND RESPONSIBILITIES

The QA MANAGER will be responsible for monitoring the construction activities for Contractor compliance to the QA/CIP and to provide the necessary documentation and coordination of all construction engineering, inspection and testing of construction materials and construction. Actual QA/CIP manpower requirements will be determined by the QA MANAGER based upon the levels of construction activities undertaken by the Contractor and to adequately and properly monitor the work to be certified as required by the Design-Build Contract and the Project's approved schedule.

The QA Manager's Project Resident Engineer (PRE) will have overall responsibility to coordinate the utilization of Independent Materials Testing Agencies' Inspectors. The PRE will coordinate with the FD/MK's Project Manager (PM) as to the Project's schedule and the inspection staff required to adequately and properly monitor these activities for certification of compliance to VDOT.

The QA MANAGER will inform the FD/MK when the quality of its work is unsatisfactory. QA MANAGER will inform the Subcontractor when the quality of its work is unsatisfactory. The PRE will notify FD/MK if corrective measures are not implemented in a timely manner. FD/MK will make all decisions regarding removal of defective work or reduction of payment to the Subcontractors, keeping VDOT's Sandston Resident Engineer informed.

The VDOT Quality Assurance inspectors will be afforded the opportunity to perform any inspection activities including but not limited to those listed below:

- Review locations where pipe and culvert are to be installed - temporary or permanent
- Inspect pipe and culvert foundations before bedding material is placed
- Review pipe and culvert invert elevations
- Inspect bridge foundations prior to placement of concrete
- Review rebar and form work prior to concrete placement
- Monitor bridge deck and bridge substructure concrete placement

- Review significant plan changes
- Attend scheduling meetings
- Have access to all Project inspection documentation
- Review failed material tests with FD/MK and the PRE
- Coordinate all discrepancies and safety concerns with FD/MK, the Subcontractor and the PRE
- Provide overview inspection of off-site asphalt and concrete plants furnishing VDOT approved materials
- Monitor traffic control devices and traffic safety

Independent Materials Testing Agencies will furnish technicians, equipment and facilities to perform laboratory tests of fabricated and non-fabricated materials used in the construction of this Project. The QA MANAGER will provide a Materials Coordinator who will be responsible for coordinating the proper inspection coverage and documentation of materials certifications. All QA MANAGER staff and Independent Materials Testing Agencies' staff shall be VDOT certified in hydraulic cement, asphalt cement pavement, central mix aggregate and soils compaction, and nuclear safety. Troxler certification may be an acceptable alternative for nuclear density inspection of compacted soils and asphaltic concrete.

The QA MANAGER will provide Engineers and Senior Inspectors (SI) for the implementation and coordination of the approved QA/CIP and to monitor, test, supervise, review, and coordinate the construction inspection and testing program for Route 895.

The QA Manager's personnel will maintain daily logs of all construction activities and will perform, although not limited to, the following to observe and record the conformance with plans and specifications:

- Review material test results
- Coordinate inspection of bearing material for spread footing foundations with the geotechnical firm selected by FD/MK.
- Check form work and reinforcing bar placement for concrete structures.
- Monitor structural steel placement
- Monitor concrete curing procedures
- Inspect bridge deck screed machines, including operation and depth of slab settings
- Monitor deck and substructure concrete placement
- Review maintenance and protection of installed traffic control devices
- Inspect erosion and siltation control devices and coordinate storm water management related matters.

This list is not intended to be inclusive of all activities that may be required of the QA Manager.
PRE and SI's will coordinate, monitor and review the following testing activities to be performed by inspectors from the Independent Materials Testing Agencies to monitor conformance with the plans and specifications.
The QA Manager's personnel will also perform the following tasks:

- Compaction testing of engineered fills including embankment, backfills, and pipe trenches
- On-site concrete testing consisting of slump, air entrainment, temperature, and the making of concrete test cylinders.
- Compaction testing of base courses and asphalt pavement
- Continuous inspection of utility installations within 895 Right-of-Way
- Blow count recordation for driving of piles
- Witnessing pressure and leak tests performed by Subcontractors
- Field bolt torque inspection
- Checking of structural steel field-coat paint thickness

The QA MANAGER will coordinate and receive all test results and reports for the following services from the off-site laboratories and plant inspectors:

- Laboratory testing of concrete cylinders
- Shop inspection of fabricated structural steel
- Monitoring of concrete, asphalt and crusher plants
- Certifications from F.O.B. job site provided materials

INSPECTION AND ADMINISTRATION

1. INSPECTION PROGRAM

A. General

All inspections shall either be performed by or at the direction of the QA Manager's Quality Assurance Team. The QA Manager's staff will determine whether the materials and work are in compliance with the approved drawings, specifications, and applicable VDOT standards as outlined in the Design-Build Contract.

B. Control Testing

All control testing will be performed by the QA MANAGER 's staff or by inspectors from an approved Independent Materials Testing Agency. Inspection activity will be scheduled and coordinated by the QA Manager's Quality Assurance Team with FD/MK's PM. The PRE shall:

1. Provide scheduling and coordination of all testing and re-testing to maintain a quality and quality level of testing for VDOT approval and certifications.
2. Receive and check sub- contractor's material certifications and samples for conformance
3. Inspect delivered materials and equipment.
4. Inspect work in progress and in place
5. Witness field testing of construction materials
6. Make control tests to support the methods or equipment of any independent testing agency
7. Verify that the results of tests conform to contract requirements
8. Immediately notify FD/MK if materials or workmanship do not comply with the specifications. FD/MK and FD/MK will be notified in writing when these deficiencies are not correct in a timely and appropriate manner.

C. Reporting

All inspection requirements will be documented in writing. Complete and accurate reports of all Quality Control Tests will be maintained by the QA MANAGER. Among the items to be shown on the report are:

1. Description of work
2. Type of test and specification reference
3. Agency and Inspector performing the test and location, time, date and equipment used.
4. Sample source and date secured
5. Results of tests
6. Recommendation as to acceptance or rejection
7. Signature of responsible person controlling the testing work
8. Approval or rejection by the PRE

D. Scheduling and Coordination

The QA MANAGER, along with necessary representatives of the Quality Assurance Team, will attend FD/MK conducted weekly construction job meetings with Subcontractors and field superintendents to discuss safety, schedule, and outstanding issues. FD/MK, will be responsible for maintaining the master schedule for this Project as provided for in the Design-Build Contract utilizing an appropriate scheduling software. Input from

the Subcontractors and field superintendents will be coordinated by FD/MK. FD/MK's working monthly or weekly schedules from the overall Project schedule will be provided to the PRE so he can adjust his staffing levels and review possible construction delays. Each Quality Assurance Team member will evaluate these requirements from FD/MK's schedule and advise the PRE as to the location, time, and number of personnel required along with the type of testing services required.

E. Job Meetings

The following is a typical schedule for FD/MK's construction job meetings:

1. Monday - Safety meeting with the FD/MK's employees
2. Thursday - Scheduling meeting, QA MANAGER and VDOT will attend as participants
3. Friday - Weekly meeting with contractor and QA MANAGER
4. Everyday - meeting with FD/MK's supervisory personnel

The QA MANAGER will schedule and conduct the following construction job meetings.
Monday - Safety meeting with the QA manager's staff
Friday - PRE will schedule and conduct progress job meetings with contractor's PM, engineers, inspectors, Independent Material Testing Agency representatives. Schedules and manpower requirements for the following week will be discussed.

PRE will attend scheduling, safety, and contractor project meetings to coordinate and disseminate information to the QA/CIP Team.

F. Progress of Work

If required for the administration of the Project, FD/MK may make a video Cassette Recording or take photographs showing the progress of construction. Each recording or photograph will normally show the date and time. The tapes and photographs made by FD/MK and/or the Subcontractor will be for their use in reviewing Project status for the administration of contract payments.

2. ADMINISTRATIVE FUNCTIONS

A. Progress Payment

Subcontractors will be responsible for preparing monthly progress payment requisitions including those portions related to the work of their Subcontractors. A monthly meeting will be conducted with the QA MANAGER to review and finalize the payment requisition. Before this monthly meeting, the Subcontractor must submit an invoice, including Substantiation of material deliveries, so that an agreement on the quantities shown on the invoice can be reached.

B. Working Drawings

All Subcontractor working drawings shall be submitted through FD/MK in accordance with the requirements of the specification. In addition, all communication between the Subcontractors and the PRE, with respect to the working drawings, shall be channeled through FD/MK.

C. Conformity with Plans and Specifications

All work performed and all materials furnished shall be in conformity with the Contract requirements.

The QA MANAGER has the authority to enforce requirements of the Contract Document, and Referance Document, when deficient materials or unsatisfactory finished products fail to conform to Contract Documents and Reference Documents. The QA Manager's Quality Assurance Team, in accordance with their assignments, shall monitor, inspect and accept the work as it progresses. Work that is not acceptable will be brought to the immediate attention of the supervisor of the Subcontractor performing the work who will have the deficiency corrected before it is covered. All deficiencies that are not corrected (hereinafter referred to as a Non-Conformance), including those pertaining to rules, regulations and permit requirements, will be documented by

the QA MANAGER. A Non-Conformance Report (NCR), referenced by a unique number, will be forwarded to FD/MK within 24 hours of discovery of the Non-Conformance. Form DD67-NCR will be used for this purpose. NCR's can be initiated by the QA MANAGER, VDOT, FD/MK, and any agency issuing a permit for the prosecution of this work. In order to maintain Project continuity, all NCRs will be submitted to and coordinated by the QA MANAGER for resolution. Subcontractors may submit through FD/MK to the PRE a proposed method of correction for approval. FD/MK will require the Subcontractor to remove, replace or correct inferior materials and workmanship. Responsibility for the expense for these corrections will be resolved between FD/MK and the Subcontractor. Each item will be placed in a computer database so as to create an ongoing punch list. This punch list will be provided on a monthly basis to FD/MK and VDOT. The objective is to resolve NCRs within thirty days.

In the event materials, or the finished product in which the materials are used, are not in strict conformity with the Contract requirements, but the removal of these materials will cause serious schedule and possible completion impacts,, the PRE, with the concurrence of VDOT, will make a final determination as to whether the work can be accepted.

In the event that it is accepted, the QA MANAGER will document the basis of acceptance. FD/MK and VDOT will be responsible for any decisions as to an appropriate adjustment in the Contract price or other specific requirements or adjustments that are appropriate.

FD/MK shall have the authority to suspend the work, wholly or in part, by written order for such period as they deem necessary because of any condition considered by them to be unfavorable for the suitable prosecution of the work or failure on the part of their Subcontractors to perform any provision of the Contract Suspension of work ordered by FD/MK may occur as a result of receiving a NCR recommending suspension of work. A NCR recommending suspension of work can be initiated by any of the parties noted above but must be furnished to the PRE for coordination and concurrence within 24 hours of discovery. VDOT, if deemed necessary, can instruct FD/MK to suspend the work.

D. As-Built Documentation

An independent survey contractor will be engaged by FD/MK to do the as-built survey of Route 895. FD/MK and/or its Subcontractor shall prepare and furnish red-lined prints of Contract drawings to the QA MANAGER showing significant as-built conditions that would not otherwise be covered by the as-built survey. All as-built shop drawings, catalog cuts, and diagrams, and other information prepared by FD/MK, its Subcontractors, suppliers and manufacturers, that are necessary to properly maintain the accepted facility, are to be furnished to the PRE and the Department. To control the documentation of the changes made, the PRE shall, on a daily basis, maintain at a central location complete set of contract full size drawings to reflect "AS-BUILT" CONDITIONS WITH CHANGES MARKED IN GREEN PENCIL.

E. Interpretations and Requests for Information

Any requests for information shall be submitted to the PRE through the appropriate inspector. The PRE will coordinate the request with the Designer, FD/MK and VDOT . A timely response will be provided by the QA MANAGER for these requests.

F. Extra Work

All request for extra work will be coordinated by FD/MK who will inform the QA manager's PRE so that proper quality control can be performed. All adjustments to contracts as a result of extra work requests will be the responsibility of FD/MK.

G. Safety

FD/MK and its Subcontractors are responsible for the safety of their operations and their employees (a Safety Superintendent will be employed full time by FD/MK). Whenever unsafe conditions are noticed by the QA MANAGER during the prosecution of the QA/CIP, they will immediately be brought to the attention of the responsible party in charge. If, after notification, satisfactory corrections are not made in a timely manner, the

Contractor's Safety Superintendent will be informed and requested to take appropriate action. If satisfactory corrections are not forthcoming, FD/MK will be informed by the PRE. The QA MANAGER shall not advise or issue directions regarding, or assume control over, safety precautions and programs of others.

VDOT shall have the authority to suspend work due to safety violations or unsafe conditions occurring within Project Right of Way. VDOT shall review the signing and traffic control devices where the Project interfaces with existing roadways VDOT shall also have the authority to suspend work along detours being used by the general public where unsafe conditions or inadequate traffic control measure are noted. Unsafe conditions found by VDOT on Project Site shall be brought to the attention of FD/MK for disposition as described above.

The PRE will conduct weekly safety meetings with his staff in addition to that conducted by FD/MK. Such meetings are to maintain safe operations by QA Manager personnel.

APPENDIX D

Plan Preparation

All drafting must be done in such a manner that when reduced to one-half of the original size the drawings will be perfectly legible and useful for construction. This will mean that lettering should be a minimum of one eighth (1/8) inch in height. The structure plans shall be prepared on standard size sheets, the size of which shall be thirty-six (36) inches by twenty-two (22) inches, with a one-half (1/2) inch border, except on the left edge where the border will be two (2) inches wide. The plans shall be prepared in ink on plastic or other materials approved by VDOT. The approved sheets shall be furnished by FD/MK. Plans shall also be submitted in electronic format using CAD Microstation. VDOT will furnish one direct positive of all applicable standard detail sheets upon request by FD/MK. Standard detail sheets are available in electronic format using CAD Microstation. Files furnished to FD/MK in electronic format shall be returned to VDOT and removed from FD/MK's and its designer's computer equipment upon completion of this contract.

Quantities for contract plans shall be accurately computed and listed separately for each unit of the superstructure and substructure and, in the case of large units, for its component parts. Concrete shall be computed to a precision of the nearest cubic meter where the amount exceeds one thousand (1,000) cubic meters and to the nearest one-tenth (0.1) cubic meter below this amount. Reinforcing steel shall be computed to the nearest five (5) kilograms on the basis of theoretical weight, and a complete reinforcing steel schedule showing all lengths and bends shall be furnished by FD/MK. Structural steel shall be computed to a precision of fifty (50) kilograms. Other bid items shall be computed to a precision as instructed by VDOT.

Each sheet of the contract plans shall be completely dimensioned, and all elevations necessary for construction purposes shall be shown. In steel construction, complete details shall be furnished showing all sizes and overall dimensions of members, number and arrangement of all fasteners at joints, type and size of welds, except that they need not be dimensioned as completely as shop plans. This work shall be performed to the same degree of refinement as that performed by VDOT in its current work as will be shown upon request by specimen drawings.

Dead load defection diagram shall be computed and shown on the drawings, and in addition a camber diagram should be shown. The deflections are those anticipated to occur in the beam upon placement of the concrete deck, diaphragms, curbs and parapets. The camber diagram for pre-stressed beams should be shown on the plans giving the expected net camber, which should be the amount of rise that should occur at mid-span when stress transfer is made and the member is freely resting on storage supports. Sequence of concrete placement operation for continuous beams or girder construction shall be given, and all erection stresses shall be computed where necessary for design. A summary table of moments, shears, reactions and stresses for primary load carrying members shall be included in the plans.

Appendix E

ROUTE 895 TOLL SYSTEM

ETTM Preliminary Performance Specifications

TABLE OF CONTENTS

Project Definition ..... -1-

Design Considerations ..... -1-

Environmental Requirements ..... -1-
General Toll System Approach ..... -3-
- Toll Rate Schedule ..... -3-
- Toll Collection Methods ..... -3-
- Inter-operability ..... -5-
- Vehicle Classification ..... -5-

Approach to Toll System Technology ..... -6-
- ETC only lanes ..... -6-
- Manual Cash/ETC lanes ..... -7-
- Automatic/ETC Lanes ..... -8-

Communication Equipment/System Architecture ..... -9-
Host Computer System ..... -10-

Technical and Functional Requirements ..... -12-
- Host Computer System ..... -12-
- Lane Controllers ..... -23-
- ETC Account Status Indicators/Lane Traffic Signal ..... -27-
- Canopy Lane Status Lights ..... -29-
- ETC Reader ..... -31-
- ETC Lane Kits ..... -32-
- Vehicle Classification System (High Speed) ..... -33-
- Vehicle Classification System (Low Speed) ..... -35-
- Toll Collector's Terminal ..... -37-
- Receipt Printer ..... -44-
- Patron fare display ..... -47-
- Intercom subsystem ..... -49-
- Video surveillance subsystem (security) ..... -51-
- UPS for Ramp Plaza ..... -53-
- UPS for Mainline Plaza ..... -55-
- Automatic Coin Machine ..... -57-
- Data Communications System ..... -61-
- Maintenance ..... -62-
- Spare components ..... -64-
- Maintenance equipment ..... -65-
- Documentation ..... -65-
- Training ..... -76-
- Video enforcement subsystem ..... -77-
- Vehicle Enforcement Subsystem Image Processing ..... -80-

Project Management .....-82-

Installation Coordination .....-82-

Project Schedule .....-82-

System Test and Training Center .....-84-

System Testing .....-84-

Appendix E

ROUTE 895 TOLL SYSTEM
ETTM Preliminary Performance Specifications

Project Definition

This document describes the toll collection system that will be designed to collect tolls on Route 895. Route 895 is a to-be-built 8.8 mile road in the vicinity of Richmond Virginia running from the Chippenham Parkway and Interstate 95 in Chesterfield county to I-295 in eastern Henrico county.

Design Considerations

The following design considerations shall apply to the work undertaken in this contract. Any deviations from these requirements shall be noted by the proposer in the proposal.

New Equipment

All equipment, parts, cables, etc. supplied for this system shall be new and unused. The equipment provided shall have been successfully used previously in comparable applications. Equipment shall be state of the art wherever this does not conflict with the requirement for prior successful use in comparable applications.

Patents, Copyrights and Intellectual Property

Neither the system nor any component thereof shall infringe upon or violate any patent, copyright, trade secret or proprietary right of any other party. The Contractor shall defend and hold harmless *FD/MK* against any and all claims of such infringement.

Quality of Materials

All materials shall be of the best quality and shall be integrated in accordance with best engineering practice so as to provide an overall system that is properly functional and operates in a manner suitable with its intended purpose

Reliability and Accuracy

The system shall operate at the reliability and accuracy rates set forth in the specifications herein.

Environmental Requirements

All exterior equipment used at the toll plaza shall directly meet or shall be placed in equipment enclosures which directly meet NEMA Standard VCS 6-110.12 for Type 3 dust-tight, rain-tight and rustproof enclosures. The equipment enclosures shall be firmly anchored to structure or the concrete island and shall contain appropriate environmental controls and sealed openings for wiring and cables. All equipment enclosures shall be secured with lock and key. A set of master keys shall be provided.

All housings of equipment placed in the toll lane or toll booth shall be made of stainless steel or other approved corrosion resistant material.

The operating environment is specified as follows:

Operating Temperature:	-20 degree Celsius (-4 degree Fahrenheit) to +55 degree Celsius (+131 degree Fahrenheit)
Humidity Extremes:	10 to 95 percent relative humidity, non-condensing.

All equipment shall not be damaged or performance degraded when stored or transported at -20 degree Celsius (-4 degree Fahrenheit) to +70 degree Celsius (+158 degree Fahrenheit).

General Toll System Approach

General Toll System Approach - The toll collection system approach envisioned for Route 895 is a closed system. The planned tolling points are illustrated in Figure 1. As shown, tolls would be collected at one mainline barrier toll plaza and at the two ramp locations.

Toll Rate Schedule

The anticipated initial toll levels for use of the road by passenger cars are $2.00 at the mainline barrier and $0.50 at the ramps. However, planning and negotiations continuing with the developer and the State of Virginia may result in lowering the toll to $1.50 at the mainline barrier. Tolls for larger vehicles such as trucks and busses will be set to correspondingly higher levels.

Variation in the toll charged in an individual transaction may also occur because of future operational choices such as the following:

Change in toll levels between peak and off peak periods in an attempt to influence demand (congestion pricing); and/or Discounts offered to vehicles paying by the Electronic Toll Collection (ETC) method will be accommodated by the system.

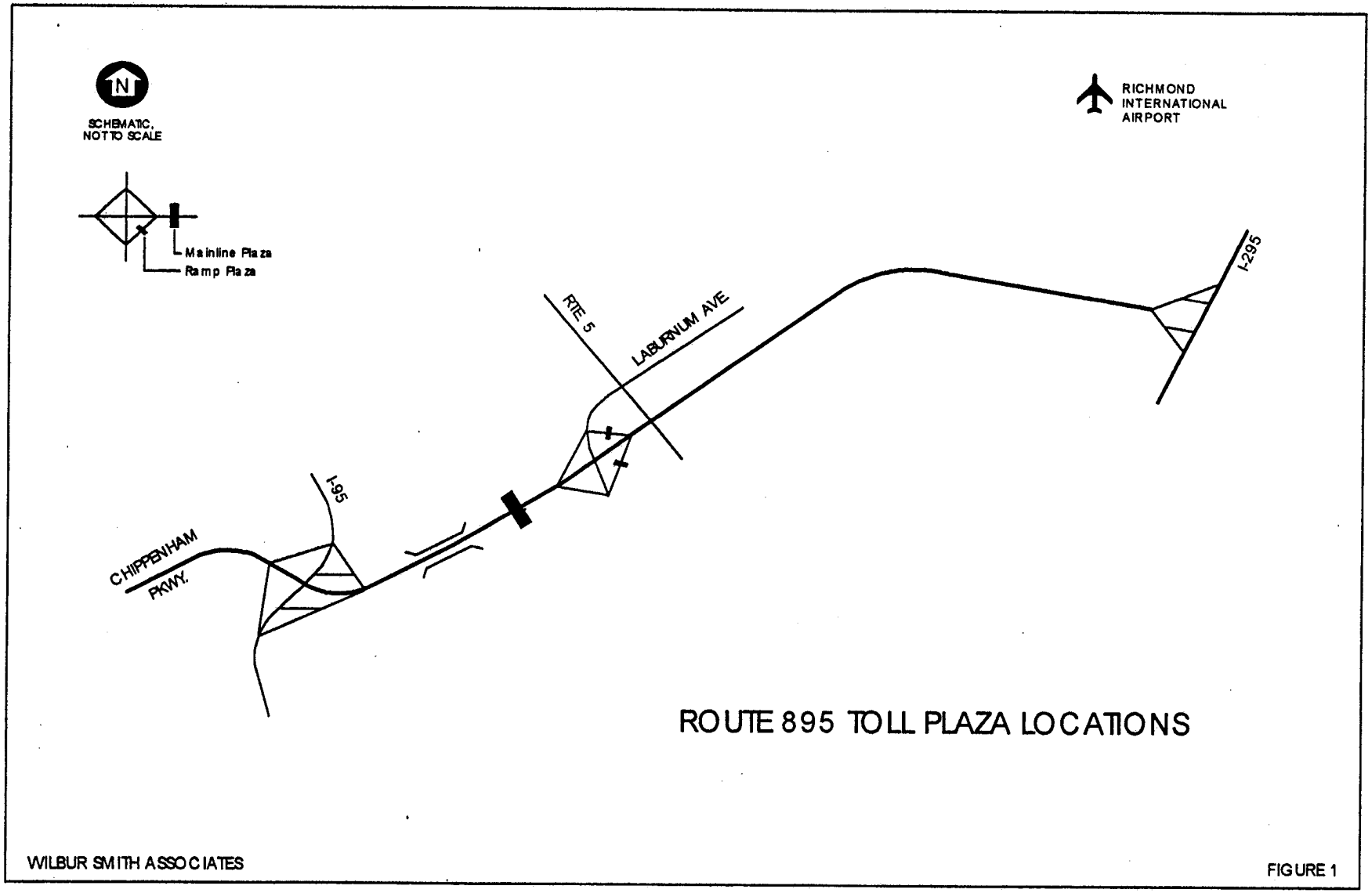
No decisions have been made yet regarding congestion pricing or discounts but the toll system design shall support these capabilities.

Toll Collection Methods

Tolls on Route 895 will be collected in traditional ways, using manned toll booths as well as automatic coin machines. Electronic Toll Collection will also be provided and will be promoted so that it becomes the primary method of toll collection.

Coin machines will be used only at the ramp plazas, as the only cash payment method, since the anticipated low traffic projections through the ramps are unlikely to justify placing personnel at these locations. Ramp plazas will also accept ETC as a method of toll payment.

Manned toll booths will be placed at the right hand side of the mainline barrier plaza to accommodate cash paying patrons, leaving ETC equipped vehicles to pass through the center of the plaza. These ETC express lanes will be designed to allow toll collection at regular highway speed. All of the manned lanes will be equipped with ETC as well as cash collection capability. Thus motorists with ETC tags who enter the cash toll plaza either by mistake, to ask directions, or the ETC only lane are temporarily closed, can be accommodated.


N
SCHEMATIC,
NOT TO SCALE
Mainline Plaza
Ramp Plaza
RICHMOND
INTERNATIONAL
AIRPORT
I-295
RTE 5
LABURNUM AVE
I-95
CHIPPENHAM
PKWY.
ROUTE 895 TOLL PLAZA LOCATIONS
WILBUR SMITH ASSOCIATES
FIGURE 1

Inter-operability

The key toll collection system element raising the issue of compatibility or inter-operability is electronic toll collection. Major national efforts are now underway to develop standards not only for ETC but also for vehicle to roadside communications which is used in a variety of intelligent transportation systems applications. Without the development of these common standards a vehicle might need a separate tag for each frequently used facility. The concern is obviously most acute among geographically closely clustered toll facilities.

The Virginia Department of Transportation (VDOT) has set a standard for ETC operation within the state. All ETC facilities within the state are to use Mark IV tags and this equipment is presently installed and operating on the Dulles Toll Road, the Dulles Greenway (Dulles Toll Road Extension) and the Coleman Bridge. It is also planned for installation on the Powhite Parkway and the Downtown Expressway, both in the Richmond Area. Neither the Downtown Expressway nor the Powhite Parkway currently have ETC, but they may very well acquire it during the prosecution of this project. The ETC equipment to be used on Route 895 is thus determined.

VDOT has established a central clearinghouse operation for all ETC operations within the state. ETC tags are issued by the clearinghouse at no charge to the individual toll road operator. Under the scheme ETC accounts are with the clearinghouse rather than with the operator.

Use of ETC for toll collection in a configuration, as is planned for Route 895, where vehicles are not restrained from toll evasion by the presence of a toll collector or a gate, shall require the employment of a violation detection system. The Video Enforcement System (VES) shall capture video images of the license plate for those vehicles that pass through ETC-only lanes without the reading of a valid ETC tag and violators at the ramp plaza lanes.

Vehicle Classification

All vehicles, regardless of class will be charged the same toll thereby eliminating the need to classify vehicles at the ramp plazas. An automatic vehicle classification system (AVC) shall be installed in the mainline plaza lanes to determine the classification of each vehicle. Vehicles shall be classified based on the number of axles. The vehicle classification system shall determine one of five tentatively identified classes for the vehicle.

Class 2 - Two-axle, four-tire or six-tire vehicles - including passenger cars, pick-up trucks, trucks, vans, motorcycles, buses and motor homes;
Class 3 - Three-axle vehicles and combinations - including buses and Class 2 vehicles towing trailers;
Class 4 - Four-axle vehicles and combinations - including Class 2 vehicles towing two-axle trailers;

Class 5 - Five-axle vehicles and combinations - including single unit and vehicle combinations; and
Class 6 - Six or more axle vehicles - including single unit and vehicle combinations.

Approach to Toll System Technology

In developing the toll collection system for the Route 895 Connector the need for a variety of equipment is foreseen. The equipment would outfit lane types that include the following:

- ETC-only express lanes;
- Attended lanes accepting cash or ETC; and
- Automatic Coin Machine lanes also equipped with ETC

The mainline plaza will have the first two of the above listed types of lanes. Signs placed over the travel lanes in advance of the toll plaza will direct ETC equipped vehicles to stay to the left and cash paying vehicles to move to the right. Signs over the individual lanes will identify them as either ETC Express lanes or a combination cash and ETC lane. As the toll plaza is approached, illuminated lights over the lanes will indicate lane status; Green for open lanes and red for closed lanes. ETC-only lanes will not have these status lights and will be open at all times, except during necessary maintenance.

ETC only lanes

Normal highway lanes, two in each traffic direction, will be provided for ETC tag equipped vehicles. These ETC-only lanes will pass through the center of the plaza with cash toll paying vehicles driving through manual lanes on the right hand side. As a vehicle passes through an ETC lane, an antenna mounted over the lane interacts with the tag in or on the vehicle. A reader (signal processor) attached to the antenna interprets the tag number and sends the number to the lane controller. The lane controller will check the tag database to determine the status of the tag. The tag will have a status defined by Customer Service Center; OK, Active, Low Balance, Negative Balance, Suspect, Bad, Stolen. AVC equipment will be installed and used to determine the vehicle's classification. The lane processor will create a transaction record containing the tag number, lane ID, date, time, vehicle classification, transaction number, and the toll to be debited to the account represented by the tag number. The tag number, vehicle classification, date, time, and lane ID will come from the tag reader, a second vehicle class will come from the AVC system. The lane controller will send the transaction record to the Host computer for further processing and to the Customer Service Center computer for account processing.

A video enforcement system (VES) will be installed in the ETC-only lanes to capture an image of the rear of the vehicle including the license plate. If the vehicle does not have a valid tag the lane controller will save the image captured by the VES along with

appropriate transaction details including the lane ID, date, time the vehicle classification/toll and send them to the Host computer for processing. If the vehicle has a valid tag the video image will be discarded and an ETC transaction message will be composed and transmitted to the host computer for re-transmission to the Customer Service Center as described above.

Note that each pair of ETC-only lanes will consist of two adjacent, non-separated traffic lanes of normal highway width. Thus, ETC system must be designed to eliminate cross lane reads and simultaneous reads during possible lane change by the vehicle in the read zone. The video enforcement system also must capture images of vehicles that may change lanes.

Manual Cash/ETC lanes

In a manual/ETC lane, as the vehicle approaches the attended toll booth, the toll collector will classify the vehicle on the manual lane terminal. Post classification AVC will also determine the vehicle's classification. If a valid tag is not present, the lane controller will display the toll on a patron toll display mounted outside the toll booth in a manner allowing it to be easily read by the motorist. The toll attendant will collect the toll from the driver and record the transaction on the attendant's terminal. This record will be sent to the lane controller which will cause the lane traffic light to change from red to green. The toll collector shall be able to request a receipt for the transaction until the AVC subsystem indicates the vehicle has left the lane.

When the automatic vehicle classification system has classified the vehicle, the lane controller will reset the traffic light and send the completed transaction (which will include lane ID, date, time, toll collected, attendant ID, vehicle classification from the attendant, vehicle classification from the vehicle classification system, and transaction number) to the Host computer for processing.

If a valid tag is present on the vehicle, the same process will occur except the toll terminal shall notify the attendant that the vehicle is paying by ETC. The attendant will not collect a fee and the lane controller will switch the illuminated lane traffic light from red to green and attach the tag number and the vehicle classification associated with the tag to the transaction record sent to the Host Computer. If the tag has a low balance, the yellow lane traffic light will be illuminated.

At the end of the attendants tour, the Host computer will have a summary of the total of the tolls collected by class for the attendant. This will be balanced against the cash deposited by the attendant and compared to the accumulated results of the AVC subsystem.

Recording of unusual occurrences such as vehicle run through (non-payment), no funds, emergency vehicle, etc. shall be made and recorded through the attendant's terminal.

Automatic/ETC Lanes

Each ramp plaza shall be configured identically. An approaching motorist will have the option of paying cash by depositing coins in an automatic coin machine (ACM) or using a valid ETC tag. As the vehicle approaches, the motorist will find the toll due displayed on the patron fare display, where it is easily read by the motorist.

If the driver elects to pay with cash, the required coins are deposited in the ACM basket. The ACM counts the cash and reports the amount to the lane controller. As each coin is counted the patron fare display shall decrement appropriately. When the toll due is satisfied, the lane controller sends a command to turn the lane traffic signal to green. When the vehicle exits the lane by passing over a vehicle loop detector installed in the roadway, the toll display and the traffic light will be reset for the next vehicle. Since all vehicles at the ramp plazas pay the same toll, no AVC subsystem is required here.

If the vehicle is equipped with a valid ETC tag, the ETC reader shall capture the tag number and send it to the lane controller. The lane controller shall cause the lane traffic signal to light green for a valid account or yellow for a low balance account. The patron fare display shall be changed to zero. A vehicle loop detector installed in the roadway shall clear the toll display, change the lane traffic light to red, and reset the system for the next vehicle.

A video enforcement sub-system will be installed in each of the Automatic/ETC lanes. As each vehicle passes over the vehicle detection loop used to reset the system, the video enforcement sub-system will produce an image of the rear of the vehicle. If a vehicle is detected by the vehicle loop detector in the roadway without a valid transaction having taken place in the lane, the video enforcement sub-system image processor will capture the image and send it, along with the invalid tag number (if available), date, time, and lane number to the Host computer for processing. All images associated with valid transactions will be discarded.

To assist the driver in the event of problems or questions, an intercom will be installed in the ACM to allow the driver to speak to a supervisor or attendant at the mainline toll plaza. A video surveillance camera with remote pan tilt zoom(PTZ) control will be mounted so as to allow full viewing of the activity in the lane on a video monitor at the mainline toll plaza. This camera will also provide security surveillance for the plaza. The plaza will be lighted in a manner as to provide ample light for both driver/system interaction and good video surveillance.

Equipment - The equipment to be placed in the ETC-only lanes shall consist of the following:

- Lane controller;
- ETC reader/antenna;
- Video camera;
- Supplemental lighting;
- Image capture and storage electronics; and
- AVC Equipment – high-speed treadle and overhead laser vehicle separator.

ETC manual lanes will contain the following equipment:

- Lane controller;
- Toll terminal;
- ETC reader/antenna;
- Collector ID reader- a magnetic card reader;
- Receipt printer;
- Patron fare display;
- Overhead traffic light;
- Lane Traffic Light/ETC account status indicator;
- Intercom station; and
- Four strip treadle with a surrounding loop to act as vehicle classifier.

In addition, one manual/ETC lane shall contain a video monitor and camera controls attached to the surveillance system and intercom master station to communicate with ACM-ETC lanes.
The ACM-ETC lanes at the ramp plazas shall contain the following equipment:

- Lane controller;
- ETC reader/antenna;
- Automatic Coin Machine;
- Decrementing patron fare display;
- Receipt printer;
- Overhead traffic light;
- Video enforcement camera;
- Supplemental lighting;
- Image capture electronics;
- Intercom station;
- Lane Traffic Light/ETC account status indicator; and
- Surveillance camera.

Communication Equipment/System Architecture

The toll system shall be configured as a single host computer and multiple lane controllers. No Plaza level computers are planned. Intelligent workstations shall be provided for the plaza supervisor, the auditor, the violations processing clerk and for the maintenance technician. Access to various computer functional areas shall be controlled by access passwords.

The lane controllers may be located in the lane or in the plaza building according to the preference of the systems supplier. Communications between the plaza building and the mainline toll lanes shall be via fiber optic cable. Communications between the mainline plaza building and the ramp plazas shall also be via fiber optic cable. The distance is approximately 1.5 miles between the ramp and mainline building.

Communications between the host computer and the FasToll Customer Service Center (FCSC) computer in Leesburg, VA will be provided by FCSC. FCSC will provide a DECrouter on site for interfacing the Host computer and its network to the communication line. Proper interfacing to the FCSC provided DECrouter shall be the responsibility of the Contractor.

Host Computer System

Host Computer System- The Host computer shall reside in the toll plaza administration building and will process data collected from the lane controllers as well as retrieving data from FasToll customer service center computer (FCSC) and updating data in the lane controllers at the mainline plaza and the ramp plazas. All tag accounting will be done at VDOT customer service. Tag transaction files will continually be received by the Host computer and forwarded on to the Customer Service Center computer. The Host computer will pass the updated ETC account status information received from the Customer Service Center to the lane controllers. All transfers between the host computer and the Customer Service Center computer will take place using a protocol predetermined by VDOT. This protocol is described elsewhere in this document.

All reporting shall be provided by the Host computer. Reports such as toll attendant tours, lane and plaza utilization, coin vault tours, non-cash vs. cash, and other revenue, etc. shall be generated. The host computer shall maintain records of all ETC transactions so as to reconcile credits received from the Customer Service Center against these transactions. The host computer shall be configured with four (4) intelligent terminals for toll supervisors, maintenance personnel, violations processing clerk and auditors.

Report formats shall be submitted by the Contractor for *FD/MK*'s review and approval. The reports to be provided shall include but not necessarily be limited to the following:

Reports (Detail & Summary)
Toll Collector
    Segment of duty

- Tour of duty
- All tours over a specified period
- All collector segment of duty list over specified period
- Collector exception report over specified period
- Collector identification report
- Collector standby report over a specified period exceeding a specified time
- Unusual Occurrence Report

Vault
- Vault activity list
- Vault cash collected report

Revenue
- Periodic revenue by lane
- Periodic revenue by plaza/system
- Year to date revenue by plaza/system
- Periodic non-revenue report
- Daily Lane open/close report
- Insufficient funds report
- Insufficient funds list
- Periodic ETC revenue by lane
- Periodic ETC revenue by plaza
- Year to date ETC revenue by system

ETC
- ETC tag usage
- Periodic ETC income report
- Periodic ETC detailed transaction report
- Non revenue ETC tag list
- Reconciliation report of ETC transactions vs. FCSC credits.

Traffic
- Hourly lane traffic (by class)
- Hourly multiple lane traffic (by class)
- Periodic daily multiple lane traffic
- Year to date daily multiple lane traffic

Operations
- Unusual occurrence
- Daily lane operations

Audit
- Daily audit log
- Daily system adjustment
- Monthly audit log

Technical and Functional Requirements

Host Computer System

The work under this section shall include all labor, materials and support services to complete the design, fabrication, integration, packaging, delivery, testing and acceptance of the toll system Host Computer hardware and software in accordance with the requirements of these specifications.

The toll system Host Computer shall perform all data storage, processing, communications, and other functions for the entire toll system. The Host Computer shall perform operating system and application software functions described elsewhere in this document.

The Host Computer shall be located in the administration building adjacent to the Mainline Toll Plaza. It shall send data to and receive data from the ten (10) lane controllers at the Mainline Toll Plaza and the two (2) remote ramp plazas and the FasToll Customer Service Center. The Host Computer shall be configured and sized to accommodate the possible future addition of six (6) extra toll lanes. Additionally, it shall communicate with four (4) work stations in the administration building and two printers. The Proposer shall provide a physical layout of the computer processor and its peripherals including communications cabinets.

The Host Computer proposed shall be of the latest design currently in production at the time of FD/MK's notice to proceed to their contractor.

System Configuration

The system configuration of the host computer system proposed shall meet at least the following:

- The Host Computer and its operating system must allow for multi-tasking and multi-user capabilities without degrading the toll processing functions;
- The Host Computer shall have dual redundant servers utilizing level 5 RAID technology with a capacity of not less than 16 Gb and shall be expandable to three times its initial capacity;
- A high speed tape backup unit shall be included with a minimum capacity of 20 Gb per tape;
- Each server shall contain a DVD drive and a LS120 floppy drive.

- The full duplex data transfer capabilities between the Host Computer and its data collection devices (lane controllers and the FasToll Customer Service Center) must be adequate to maintain real time data at all locations without affecting vehicle traffic speeds or toll attendant processing speeds while maintaining data transfer accuracy of 99.98%;

- The Host Computer system must be able to communicate with the FasToll Customer Service Center (FCSC) in the format prescribed by VDOT. That format follows below;

- A network interface card and related software to allow connection to the DECrouter supplied by the FCSC;

- A complete backup system including automated backups occurring while the system is fully functional and without system degradation shall be provided;

- Two high speed laser printers;

- Four complete work stations (color monitor, keyboard, processor, etc.); and

- A user defined five level security system.

Application software shall be client-server based software and the database shall be Oracle 7. A series of reports necessary to audit toll collector functions and ACM activity shall be included. Report formats shall be submitted for approval as part of the software documentation.

The information below is provided to describe to the proposers, the FasToll Customer Service Center/ETC system interface. However, the responsibility for the successful interface of the two systems shall be the Contractor's. It shall be the responsibility of the Contractor to verify the message formats with FCSC prior to developing the necessary software to accomplish the interface.

VDOT Customer Service Center data transfer protocol

The FasToll Customer Service Center (FCSC) utilizes a DEC based computer system with VMS as its operating system. Communication is achieved using the DECnet protocol which is carried over multiple communications media via modems, routers, terminal servers and TSUs. For the Route 895 tollway, the FCSC will provide a DECrouter at the Mainline Toll Plaza Administration Building. This router will provide a 10BaseT ethernet port to the Mainline Toll Plaza Host computer system. This connection shall provide the physical connection between the Host computer system and the FCSC.

In order to make use of this interface, the Contractor must provide computer equipment with an ethernet interface that is capable of communicating using the DECnet protocol. This protocol shall be used to send and receive the messages and files described in this interface specification. The messages that shall be communicated are as follows:

- Time synch messages from the FCSC;
- Individual transponder status updates;
- Complete transponder status files for all FasToll transponders;
- File transfer status messages;
- FasToll transactions that occur in the toll lanes; and
- Message synchronization and re-synchronization.

The following sections define the message formats and message structures that shall be used to communicate with the FCSC to enable FasToll transactions to be carried out in the Route 895 toll lanes and for VDOT's existing service center to maintain the corresponding FasToll accounts.

Message Structure

Each message comprises a message header (MH_STATUS) and a transaction. The DestId and SrcId fields indicate the unique identification numbers of the component processes to which the message should be delivered (DestId) and the message source (SrcId). Every component process must have a unique ID.

Messages from FCSC to Route 895 Host Computer

The DestId for these messages will correspond to the identification assigned by the FCSC to the Route 895 Host computer system. The SrcId for these messages will correspond to the FCSC Host computer identification.

Time synchronization messages - TIME_SYNCH_TX - Because it is essential that the Host Computer, and FCSC clocks be synchronized, periodically (every half hour) the FCSC will send this message to update the current time.

Individual AVI tag status updates - AVI_STATUS_TX - Whenever the status (inactive, active, lost/stolen, low-balance, no funds) of an AVI transponder changes, the FCSC send this message to the Host Computer so that the transponder status databases can be updated at the Host Computer and ETC system lane controllers.

Complete AVI tag status file - (FTGENAVI.TMP) - The FCSC also sends the complete tag status file periodically (at midnight) and on demand. The transmission is performed with the VMS COPY command, for this reason the plaza must be running VMS or a process that can

simulate the VMS functionality to support this file transfer. The file contains the status of all the transponders registered at the FCSC. The Host Computer must be able to receive this file and send the data on to the lane controllers. The file is formatted as a series of bytes where each byte represents the status of two tags. The first nybble (4 bits) is the status of an even tag, the second nybble is the status of the following odd tag. For instance, the first byte of the file contains the status of tags 0 and 1, the next byte is tags 2 and 3, and so on to the total size of the file.

File transfer complete message - FILE_XFER_COMPLETE_TX - After the file is successfully transmitted to the Host Computer, the FCSC sends a message to tell the plaza that there is a new file.

Fence Bumps - The FCSC sends "fence bump" messages so the plaza knows which messages have been received and archived at the FCSC (see below). A fence bump message is merely a message header with the appropriate value in the ucTFMType field, there is no corresponding transaction data.

Messages from Route 895 Host Computer to FCSC

Revenue transactions - AVI_TX - Most messages between the Host Computer and FCSC are AVI transactions. These may involve revenue transponders or non-revenue transponders. The DestId for these messages will correspond to the FCSC Host computer identification. For these messages the SrcId shall correspond to the ETC system lane in which the transaction occurred. Lane number SrcIds will be assigned by the FCSC.

Transponder File Requests - FILE_REQUEST_TX - The plaza also needs to be able to request a download of the complete Fastoll transponder file. The DestId for these messages will correspond to the FCSC Host computer identification. The SrcId for these messages will correspond to the identification assigned by the FCSC to the Host Computer.

Guaranteed Messages and Retransmission

Most messages, and especially revenue transactions, shall be sent guaranteed. This means that the messages will be buffered until they can be sent and until the receiving end has confirmed that the transaction has been committed and archived.

Each guaranteed message shall be assigned a unique sequence number by the message source. Separate sequence number counts shall be used for each Source Destination directional pair. In the event of a catastrophe either system shall request retransmission of any missing messages. Messages for each Source Destination directional pair shall be locally stored until a

"fence bump" transaction is received indicating which messages have been archived at the receiving end and can be discarded from the current message storage file.

For example:

- The Host Computer sends messages 1 through 500, and the FCSC receives them and processes them and backs them up to tape at the end of the day;
- The FCSC sends the plaza a "fence bump" message indicating that messages up through 500 have been archived;
- The next day the Host Computer sends messages 501 through 1000, and the FCSC receives them and processes them; and
- A catastrophe occurs at the FCSC resulting in the loss of current data. To recover the FCSC restores from their archive tape and then the FCSC asks the Host Computer to re-transmit from the fence. The plaza must be able to send messages 501 through 1000 again.

Message Formats and Data Structures

Generic ARCS Message -

(message header)	(transaction)

Message Header - MH_STATUS

uwMsgSize	DestId	SrcId	ulSequence	Priority	TimeStamp	ucTFMType

```
typedef struct {

    UWORD        uwMsgSize PACKED;     /* message data length */
    DESTID       DestId PACKED;        /* dest id */
    DESTID       SrcId PACKED;         /* source id */
    ULONGWORD    ulSequence PACKED;/* sequence */
    PRIORITY Priority PACKED;          /* priority, unused */
    CS_TIME_T    TimeStamp PACKED;     /* message time stamp */
    UCHAR        ucTFMType PACKED;     /* transaction file management function */
                                       /* flags */
    } MH_STATUS;
```

Fence Bump

Message header only, MH_STATUS contains:

uwMsgSize = 0 (there is no message data)

ulSequence = point at which to set fence (i.e. if messages up to 1000 have been archived the ulSequence = 1000)
ucTFMType = MHTFM_BUMP_FENCE

ARCS Revenue Transaction Descriptions

Automatic Vehicle Identification Transaction - AVT_TX

VSR HEADER	VSR_AVI

```
typedef struct AviTx {
VSR_HEADER   Header;   /* Header structure */
VSR_AVI      Avi;      /* AVI Structure */
}AVI_TX
```

ARCS VSR (Vehicle Status Record) Descriptions

Header VSR - VSR_HEADER

uwTxId	Date Time	ucSeqNumber	uwDuration	ulEventData	ucPreFwdAxles	ucPreRevAxles	ucFwdAxles	ucRevAxles	uwRevenuecol	ucClass	ePayMethod

```
typedef struct VsrHeader {

UWORD          uwTxId;          /* Transaction id */
CS_TIME_T      Date Time;       /* time in seconds */
UCHAR          ucSeqNumber;     /* sequence within second */
UWORD          uwDuration;      /* duration in seconds */
ULONGWORD      ulEventData;     /* unused - set to 0 */
UCHAR          ucPreFwdAxles;   /* preclass forward axle count */
UCHAR          ucPreRevAxles;   /* preclass reverse axle count */
UCHAR          ucFwdAxles;      /* forward axle count */
UCHAR          ucRevAxles;      /* reverse axle count */
UWORD          uwRevenueCol;    /* toll to be debited from account */
UCHAR          ucClass;         /* collector classification */
PAYMENT_METHOD_E   ePayMethod;  /* cash, check, card... */
```

} VSR_HEADER;

Automatic Vehicle Identification VSR - VSR_AVI

ulId	ucRegion	UcAuthority	ucTagStatus	ucErrorCode

```
typedef struct VsrAvi {

ULONGWORD   ulId;          /* Tag id                 */
UCHAR  ucRegion;           /* Tag region             */
UCHAR  ucAuthority;        /* issuring authority     */
UCHAR  ucTagStatus;        /* tag status             */
UCHAR  ucErrorCode;        /* Error Codes            */
}VSR_AVI;
;
```

Other Transactions

File Transfer Complete - FILE_XFER_COMPLETE_TX

uwTxId	eFile Type

```
typedef struct FileXferCompleteTx {
UWORD        uwTxId;
DATA_FILE_TYPE_E   eFileType;
} FILE_XFER_COMPLETE_TX;
```

Time Synchronization - TIME_SYNCH_TX

uwTxId	ucTMSType	ucTCMNumberof Type	1CalendarTime

```
typedef struct TimeSynchTx {
UWORD  uwTxId;            /* Transaction id */
UCHAR   ucTMSType;        /* ? */
UCHAR   ucTCMNumberofType;        /* ? */
LONGWORD  1CalendarTime;        /* Current time */
} TIME_SYNCH_TX;
#define TIME_SYNCH_TX_LEN sizeof(TIME_SYNCH_TX)
```

Individual AVI Tag Status - AVI_STATUS_TX

uwTxId	ulAviTagNum	ucIssuingAuthority	ucStatus

```
typedef struct AviStatusTx {
UWORD  uwTxId;
ULONGWORD      ulAviTagNum;
UCHAR  ucIssuingAuthority;   /* Region or authority code */
UCHAR  ucStatus;
} AVI_STATUS_TX;
```

Updated File Request - FILE_REQUEST_TX

uwTxId	eFileType	eUpdateType	uwLaneNumber	uwPlazaNumber

```
typedef struct FileRequestTx {
UWORD        uwTxId;
DATA_FILE_TYPE_E   eFileType;
UPDATE_TYPE_E      eUpdate Type;
UWORD        uwLaneNumber;
UWORD        uwPlazaNumber;
} FILE_REQUEST_TX;
```

Miscellaneous ARCS Structures

ARCS common services time format - CS_TIME_T

DLSTTz	CalendarTime

```
typedef struct {
TIME_OFFSETS DLSTTz PACKED; /* Combined DLST and TZ
offset */ time_t  CalendarTime PACKED; /* Local calendar time */
} CS_TIME_T;
```

C code definitions of constants, data Types, and enums

Note: This section is provided for reference purposes in defining the field structures and data formats in the above transactions. Not all definitions that follow will be utilized in the FCSC to Host Computer communications.

A note on the PACKED attribute:
The attribute PACKED only has meaning in Linux systems. On all other systems PACKED is #DEFINEd as a null token and is thereby ignored.

```
/* TFMType function codes (See MH_STATUS) */
#define MHTFM_NONE              0 /* No TFM function -- normal message */
#define MHTFM_RELIABLE      1 /* Reliable transmission */
#define MHTFM_RETRANSMIT        2 /* Retransmit request */
#define MHTFM_BUMP_FENCE          3 /* update transaction file wrap fence */
#define MHTFM_NO_RETRANSMIT   4 /* Retransmit failure signal */
#define MHTFM_RELIABLE_RESET   5 /* Force reset of link states */
#define MHTFM_STATE_REQUEST    6 /* Ask adjacent TFM for RLink state */
#define MHTFM_FENCE_VIOLATION 7 /* No restraint from before fence */
#define MHTFM_MAXIMUM_STATE_EXCEEDED   8 /* Future state retransmission reqd
*/
#define MHTFM_RETRIEVE_ARCHIVE_2   9 /* Last resort disk retrieval */
#define MHTFM_CANCEL_REQUEST_2  10 /* Cancel last resort disk retrieval */
#define MHTFM_FENCE_REQUEST  11 /* Request fence from next TFM */
#define MHTFM_BUMP_ACK   12 /* Update transaction commit ack */
#define MHTFM_ACK_REQUEST  13 /* Request ack from next TFM */
#define MHTFM_STATE_RESPONSE    14 /* Request state from next TFM */
#define MHTFM_AM_RETRIEVAL_COMPLETE    128 /* Archive retrieval complete */
#define MHTFM_AM_ILLEGAL_OPERATION    129 /* Archive operation */

/* ucErrorCode function codes (See VSR_AVI) Errors concerning AVI reader */
#define AVI_NO_EROR 0x00
#define AVI_DATA_CONVERSION_EROR 0x01
#define AVI_LUHN_EROR 0x02
#define AVI_CHECKSUM_EROR 0x04
#define AVI_PROTOCOL_EROR 0x08
#define AVI_BAD_CRC_EROR 0x10
#define AVI_SHUTDOWN 0x00

/* ucStatus status of the tag */
#define AVI_VALID_TAG 0 /'* Tag is OK */
#define AVI_LOW_BALANCE_TAG 1 /'* Tag account has low balance */
#define AVI_NEG_BALANCE_TAG 2 /'* Tag account has negative balance */
```

```
#define AVI_VERIFY_TAG 3 /'* Tag is suspect */
#define AVI_INVALID TAG 4 /'* Tag is bad */
#define AVI_STOLEN_TAG 5 /'* Tag is stolen */

typedef short           WORD;           (16 bits)
typedef unsigned shortUWORD;        (16 bits)
typedef long            LONGWORD;       (32 bits)
typedef unsigned long   ULONGWORD;      (32 bits)
typedef char            CHAR;           (8 bits)
typedef unsigned char   UCHAR;          (8 bits)
typedef unsigned char   FLAG;       (8 bits)
typedef unsigned char   BOOLEAN;        (8 bits)
typedef int             CS_FILE;        (32 bits on VMS & QNX, 16 bits on MS-
DOS)
typedef UWORD           DESTID;         (16 bits)
typedef char            TIME_OFFSETS;   (8 bits)
```

DLSTTz
bits 1-6: time zone (5 for EST)
bit 7: always 1
bit 8: 0 = standard time, 1 = daylight savings time

Calendar Time
Number of seconds since 1-Jan-1970 00:00:00.0 UTC (GMT)

```
typedef enum {
NO_PM,  /* no pay method */
AVI_PM,
ACM_PM,
CASH_PM,
NON_REVENUE_PM
TOKEN_PM,
SCRIP_PM,
CARD_MAGNETIC_PM,
CARD_MANUAL_PM,
STICKER_PM,
PREPAID_PM,
NUMBER_OF_PAYMENT_E,
}   PAYMENT_METHOD_E_E;
typedef UWORD PAYMENT_METHOD_E;

typedef enum {
TOLL_RATE,
```

```
EMP_ID,
AVI_TAG,
AVI_TAG2,
MAX_FILES,
} DATA_FILE_TYPE_E_E;
typedef UWORD DATA_FILE_TYPE_E;

typedef enum {
COMPLETE_FILE_UPDATE,
ADD_RECORD,
DELETE_RECORD,
UNDEFINED
} UPDATE_TYPE_E_E;
typedef UWORD UPDATE_TYPE_E;
```

Lane Controllers

The Contractor shall furnish and install a lane controller in each of the Mainline Toll Plaza lanes and each of the ramp lanes and one spare unit for a total of thirteen (13) lane controllers. The lane controllers shall control and monitor the subsystems and communicate with the Host Computer.

The work under this section shall include all labor, materials, and support services to complete the design, programming, fabrication, testing, installation, integration and acceptance of the lane controller subsystem.

The lane controller shall send and/or receive information from the following units:

- ETC readers;
- Toll attendant's terminal;
- Receipt printer
- Magnetic card reader
- Patron fare display;
- Automatic coin machine;
- Vehicle classification system - high speed;
- Vehicle classification system - low speed;
- ETC account status lights;
- Canopy status lights; and
- Violation image capture equipment.

At the Mainline Toll Plaza, the controllers may be installed in the lanes utilizing NEMA dust tight and water tight enclosures or they may be rack mounted in the administration building. At the ramp plazas, they shall be enclosed in the toll island building.

Host Computer Messages

Messages between the controllers and the Host Computer shall use error checking protocol and include a sequential transaction number. Circular message log files shall be maintained. Messages from the controllers to the Host Computer involving vehicle transactions shall contain, at a minimum, the following groups of data:

ETC Express Lanes

- Transaction number;
- ETC tag number;
- Lane number;
- Vehicle classification from the tag;
- Vehicle classification from the high speed vehicle classification system;
- Current date;

- Current time;
- Calculated toll using the tag vehicle classification;
- Calculated toll using VCS system; and
- Image captured from the video enforcement subsystem (if invalid or no tag);

Manual Lanes

- Transaction number;
- ETC tag number (if a tag is present);
- Lane number;
- Vehicle classification from the tag (if tag present);
- Vehicle classification from the toll attendant;
- Vehicle classification from the slow speed VCS;
- Current date;
- Current time;
- Calculated toll using tag vehicle classification (if present);
- Calculated toll using input from the toll attendant;
- Calculated toll using the slow speed VCS;
- Toll attendant ID number;
- Toll attendant tour number;
- Toll attendant segment number; and
- Vehicle license plate number (if in violation).

Automatic/ETC Lanes

- Transaction number;
- Lane number;
- ETC tag number (if tag present);
- Calculated toll;
- Current date;
- Current time;
- Automatic Coin Machine (ACM) toll collected; and
- ACM vault number;
- Vehicle image from the VES.

Messages from the Host Computer to the lane controllers involving ETC tag data shall, at a minimum, contain the following:

- Transaction number;
- ETC tag number; and
- ETC tag status.

Messages from the Host Computer to the Mainline Toll Plaza controllers involving toll calculations shall, at a minimum, contain the following:

- Transaction number;
- Vehicle classification;
- Toll; and
- Effective date and time.

Messages from the Host Computer to the ramp plazas involving toll calculations shall, at a minimum contain the following:

- Transaction number;
- Default toll; and
- Effective date and time.

Special messages from the Host Computer to a lane controller will be of the following type:

- Activate a device;
- Open lane, close lane; and
- Date and time sync.

The controller tag database shall be able to accommodate account status information for a minimum of 5,000,000 tags.

All controllers shall be interchangeable from lane to lane. The contractor shall install the spare controller in the Mainline Toll Plaza operations building test and training center. It shall have the same software setup as the other controllers and shall be interchangeable with them.

In the event of a failure of the Host computer or the communications line to it, the lane controller shall be able to operate in stand alone mode for an extended period of time. The lane controller shall have sufficient storage to hold toll transactions for thirty (30) days of operation plus video images for 1000 violators.

The lane controllers shall operate effectively at an input power of 115 VAC $\pm$ 15 volts at 60 $\pm$ 3 Hz. The lane controller shall be supported by the Mainline Plaza UPS and the individual UPS at the ramp plazas.

The lane controllers should have a MTBF of 8000 hours with a MTTR of 1 hour.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment Data Sheets;
- Performance specifications;

- Complete as built drawings of the equipment and installation;
- Complete parts list, including manufacturer and manufacturers part number;
- Maintenance manual;
- Circuit board pictures identifying major components; and
- Complete operations manual (10 copies).

Testing

The Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

ETC Account Status Indicators/Lane Traffic Signal

The Contractor shall provide an ETC account status indicator (traffic signal) at each of the two (2) Automatic Coin Machine/ETC lanes at the ramp plazas and each of the six (6) Manual/ETC lanes at the Mainline Toll Plaza. The work under this section shall include all labor, materials and support services to complete the installation, integration, testing, and acceptance of an 8-inch diameter aluminum signal head.

Each traffic signal head shall consist of three (3) completely identical signal sections rigidly fastened together to present a continuous, pleasing appearance. Each section shall have a separate and complete housing. The traffic signal shall meet or exceed the Equipment Standard of the Institute of Transportation Engineers' (ITE) latest revision.

The ETC account status indicator is to be used to display the status of an ETC account or the end of a non-ETC toll transaction as the vehicle passes through the lane.

Design Requirements

The housing of each section shall be a one-piece corrosion resistant aluminum alloy die casting.

The prism traffic signal lens shall be standard red, yellow, and green and shall conform to the latest revision of the ITE standard specifications. The yellow lens shall be inscribed "Low Bal".

The signal head color shall be yellow, except that the inside of the visor and the front side of the backplate shall be painted dull black.

Operational Requirements

The ETC account status indicator/traffic light in Manual/ETC lanes shall be lit red during non-activity periods. At the occurrence of a valid non-ETC transaction, the lane controller shall signal the light to turn green. The lane controller shall signal the light to turn red when the vehicle has cleared the exit loop. At the end of a valid ETC transaction, the lane controller shall signal the light to turn green for a valid ETC account and yellow for a low balance ETC account. Again, the signal shall return to red when the vehicle has cleared the exit loop.

The ETC account status indicator/traffic light for ACM/ETC ramp plaza lanes shall be lit red during non-activity periods. During a cash transaction, once the full toll has been paid, the signal shall turn green. When exit has been indicated by the trailing traffic loop, the light shall return to red. During an ETC transaction, the green light shall be lit after a valid ETC transaction occurs, returning to red as indicated above. The account status indicator shall light yellow when an ETC transaction occurs and ETC tag funds are below the prescribed

level, and return to red as indicated above. The account status indicator shall remain red for invalid ETC tags and ETC accounts below zero balance.

Reliability

The mean time between failures shall be more than 8000 hours (including bulbs) and the mean time to repair (MTTR) shall be less than 1 hour.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment Data Sheets;
- Performance specifications;
- As build drawings;
- Complete parts list, including manufacturer and manufacturers part number; and
- Maintenance manual.

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Canopy Lane Status Lights

The Contractor shall provide a Canopy Lane Status light at each of the six (6) Manual lanes at the Mainline Toll Plaza. The work under this section shall include all labor, materials and support services to complete the installation, integration, testing, and acceptance of a 12-inch diameter aluminum signal head for the canopy lights.

Each canopy light head shall consist of two (2) completely identical signal sections rigidly fastened together to present a continuous, pleasing appearance. Each section shall have a separate and complete housing. The traffic signal shall meet or exceed the Equipment Standard of the Institute of Transportation Engineers' (ITE) latest revision.

The canopy lights shall be mounted on the canopy directly over the center of each lane in a manner making them visible to motorist in enough time to make a safe lane change decision to an open lane.

The canopy lights shall be used to display the status of the lanes (open/closed). The lane controller will signal the traffic lights to illuminate the red light for closed and the green for open.

Design Requirements

The prism traffic signal lens shall be standard red and green and shall conform to the latest revision of the ITE standard specifications.

The signal head color shall be yellow, except that the inside of the visor and the front side of the backplate shall be painted dull black.

Operational Requirements

The canopy light shall be red when the lane is closed, in standby, or open in maintenance mode. It shall be green when the lane is open.

Reliability

The mean time between failures shall be more than 8000 hours (including bulbs) and the mean time to repair (MTTR) shall be less than 1 hour.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment Data Sheets;
- Performance specifications;
- As build drawings;
- Complete parts list, including manufacturer and manufacturers part number; and
- Maintenance manual.

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

ETC Reader

The Contractor shall provide the same ETC equipment used on the Powhite Parkway Extension. Currently, this shall be one (1) dedicated MARK IV Model 800000-001 redundant reader for each pair of ETC express lanes, one (1) MARK IV Model 8000000-001 redundant reader for each group of manual ETC lanes (one group east bound and one west bound), and one (1) MARK IV Model 800000-001 redundant reader for each of the ramp plazas total 6 readers). At the time of procurement, the Contractor shall verify the equipment at the Powhite Parkway Extension and implement any changes made since this writing. This work shall include all cables, connectors, cabinets, labor, materials, firmware, and services necessary to accomplish the design, fabrication, integration, testing, installation, and acceptance of the electronic toll collection system.

The readers, at the time of installation, shall be the latest version of the model in use at the Powhite Parkway Extension.

MARK IV tags will be distributed by FCSC eliminating the need for the Contractor to provide tags with this project.

The MARK IV readers integrated with the ETC lane kits and the lane controller must be able to perform a read/write function to a tag in a lane at speeds high enough to prevent any loss of tag reads as vehicles pass through the express lanes at speed rates of 5 to 90 MPH and prevent any degradation in the toll attendant's ability to process vehicles in the manual lanes.

The readers in the manual lanes must have the same protocol as the readers in the express lanes and must be synchronized with them.

Accuracy Rate

The readers provided along with the appropriate cables, connectors, lane controllers, and installation must provide an accuracy rate of 99.99%.

Reliability Requirements

The mean time between failures (MTBF) of the readers shall be greater than 14,000 hours and the mean time to repair (MTTR) shall be less than 1 hour.

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

ETC Lane Kits

The Contractor shall provide lane kits for the ETC reader equipment described above. Currently, this shall include three (3) MARK IV Model 800122-002 lane kits for each pair of ETC express lanes, three (3) MARK IV Model 800122-002 lane kits for each group of manual ETC lanes (one group east bound and one west bound), and one (1) MARK IV Model 800122-002 lane kit for each of the ramp plazas (total 14 lane kits). This work shall include all cables, mountings, connectors, cabinets, labor, materials, firmware, and services necessary to accomplish the design, fabrication, integration, testing, installation, and acceptance of the electronic toll collection system.

The lane kits, at the time of installation, shall be the latest version of the model specified.

The MARK IV lane kits shall include a radio frequency (RF) module, an antenna, adapter cables, and all necessary connectors. The RF module shall slide into one of the eight slots on the RF rack located within the ETC reader unit.

The MARK IV lane kits integrated with the MARK IV readers and the lane controller shall be able to perform a read/write function to a tag in a lane at speeds high enough to prevent any loss of tag reads as vehicles pass through the express lanes at speeds of 5 to 100 MPH and prevent any degradation in the toll attendant's ability to process vehicles in the manual lanes.

Lane kits shall be installed and aligned in such a manner as to prevent cross reads between adjacent lanes, prevent reads from trailing vehicles (tailgating), and to read vehicles straddling adjacent lanes. The Contractor shall design the system to assure accurate relationships between tag reads and the vehicle being classified.

Reliability Requirements

The mean time between failures (MTBF) of the readers shall be greater than 14000 hours and the mean time to repair (MTTR) shall be less than 2 hours.

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Vehicle Classification System (High Speed)

The Contractor shall provide a Vehicle Classification System (VCS) in each of the four (4) ETC Express Lanes at the Mainline Toll Plaza. This work shall include the provision of a combination vehicle separator and high speed axle detector, classification logic module, and all necessary cables and connectors. It further includes all labor, material, and services necessary to accomplish the design, development, fabrication, integration, testing, installation, and acceptance of the system in accordance with these specifications.

A vehicle will pass through the lane at normal highway speeds. The ETC system shall identify the vehicle, read the tag and send the tag ID number and lane number to the lane controller where a toll transaction will be created. The VCS shall classify the vehicle according to the number of axles on the vehicle.

Design Requirements

The VCS shall classify vehicles at speeds of 5 to 100 mph. The classification module shall send the classification information to the lane controller to be combined with the transaction data from the tag read. Thus, the systems must be synchronized to assure proper matches with tag reads and vehicle classifications. The accuracy rate of synchronization between the two systems shall be 99.99%. The system shall recognize when a synchronizing problem occurs and be self-correcting to avoid repeating errors.

The selection of components that make up the high speed vehicle classification system (vehicle separator and axle detector) are the responsibility of the Contractor. The vehicle separator may be an overhead laser device that is also used in the video enforcement subsystem as the triggering mechanism for image capture. Alternatively a dedicated device may be used for the purpose of vehicle classification.

The high speed axle detector shall have a record of successful performance in projects. The axle detecting sensors must be flexible and conform to any road profile maintaining a uniform distance to the road surface. The final installation shall be flush with the road surface.

The sensor installation configuration shall allow for separation of vehicles in the lanes, classifying a vehicle in each lane, and distinguishing a vehicle straddling two lanes.

The classification logic shall allow user defined vehicle classes and shall be controllable from the Host Computer in the Mainline Toll Plaza administration building. The Contractor shall provide all communication and integration logic between the classification logic module and the lane controller vehicle transaction record.

Electrical Requirements

The vehicle classification system (including all components) shall operate at 115 VAC 60 HZ.

Reliability Requirements

The mean time between failures (MTBF) of the high speed axle detectors shall be 8000 hours minimum and the mean time to repair (MTTR) shall be 4 hours maximum. The MTBF for the vehicle separator shall be 8000 hours minimum and the MTTR shall be 1 hour maximum. The MTBF for the classification logic shall be 8000 hours minimum and the MTTR shall be 1 hour maximum. The overall system MTBF shall be 2000 hours minimum and the MTTR shall be 1 hour maximum.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment Data Sheets;
- Performance specifications;
- Complete as built drawings of the equipment and installation;
- Complete parts list, including manufacturer and manufacturers part number;
- Maintenance manual; and
- Circuit board pictures identifying major components.

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Vehicle Classification System (Low Speed)

The contractor shall provide a vehicle classification system (low speed) in each of the six (6) Manual/ETC Lanes at the Mainline Toll Plaza. This work shall include the provision of the loops, treadles, and classification logic modules. The system to be provided shall be a treadle and loop system. This work further includes all labor, material and services necessary to accomplish the design, development, fabrication, integration, testing, installation, and acceptance of the vehicle classification system in accordance with these specifications.

The vehicle classification system shall be installed as a post transaction system. In a Manual Lane, a vehicle will stop at a toll attendant's booth where the attendant will enter the vehicle classification and collect the appropriate fare as determined by the lane controller. The vehicle will accelerate away from the toll booth and pass over the vehicle classification system. The vehicle classification system will determine the proper classification and send it to the lane controller where it will become part of the transaction record for that vehicle.

Design Requirements

The vehicle classification system indicated is a four strip treadle system. Other technology meeting, at a minimum, the standards for the treadle system will be considered.

The vehicle classification system shall contain, at a minimum, the following:

- A four (4) strip treadle accurate to within ±0.5% over 1000 axles over a speed range of 0 mph to 40 mph (0 km/h to 65 km/h);
- The classification logic shall adjust axle totals for vehicles detected backing up;
- The inductive loop shall be placed in such a manner as to surround the treadle and detect the presence of a vehicle;
- Communication protocol between the classification logic module and the lane controller shall be compatible. The Contractor shall integrate the classification system and the lane controller; and
- All installation detail must be approved by VDOT.

Electrical Requirements

The vehicle classification system (including all components) shall operate at 115 VAC 60 HZ.

Reliability Requirements

The mean cycles between failures (MCBF) of the 4-strip contact treadle shall be 1,000,000 axles and the mean time to repair (MTTR) shall be 4 hours maximum. The MCBF for the vehicle induction loop shall be 8000 hours minimum and the MTTR shall be 4 hours maximum. The MCBF for the classification logic unit (if used) shall be 8000 hours minimum and the MTTR shall be 1 hour maximum. The overall system MCBF shall be 2000 hours and the MTTR shall be 1 hour.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment Data Sheets;
- Performance specifications;
- Complete as built drawings of the equipment and installation;
- Complete parts list, including manufacturer and manufacturers part number;
- Maintenance manual; and
- Circuit board pictures identifying major components.

Testing

The contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Toll Collector's Terminal

The Contractor shall provide six (6) toll collector's terminals which shall include keypads, displays, cash drawer, and magnetic stripe card readers to serve as the interface between the toll collector and the lane controller. The terminal shall have an interface for a receipt printer and it shall be connected to and interfaced with the lane controller for each corresponding lane. This work further includes all labor, material, and services necessary to accomplish the design, development, fabrication, integration, testing, installation, and acceptance of the terminals in accordance with these specifications.

The toll terminal shall be located on the toll booth counter. It shall be designed in a manner to allow non-technical personnel to exchange the entire unit in case of failure.

The toll terminal shall incorporate a display keyboard and collector magnetic stripe ID card reader. The toll terminal housing shall be high quality brushed stainless steel and designed to be impervious to electrostatic discharge built up on the toll collector's hands from contact with motorists, even in extremely dry conditions.

Keypad

The description of a keypad is not intended to preclude the approach of utilizing a touch screen terminal. The keypad shall have, at a minimum, the following elements:

- Replaceable key cap labels permitting legend changes;
- Watertight/oil tight switches; and
- Modular construction allowing removal of defective switches.

Spare keys shall be incorporated into the design of the key pad.

Controller

The terminal's controller will provide all of the functions of the terminal and provide the interface to the lane controller..

Display

The color and brightness of the display shall permit viewing under high and low ambient light conditions. Brightness and contrast shall be adjustable. The display capacity shall be a minimum of 40 characters. Character height shall be 0.5 inches, minimum.

Magnetic Stripe Card Reader

A magnetically encoded card identifying an authorized user of the terminal will be issued to each attendant. Upon starting a tour or tour segment, the attendant will swipe the card through the reader. The lane controller will validate the data and activate the terminal for use. The attendant will end a tour or segment by pressing appropriate keys on the keypad. The system will permit the collector to open the lane by keying in his/her ID when this is authorized by the toll supervisor through the toll supervisor's workstation. This alternate opening procedure is only intended for use when the mag card reader or collector's ID card are not functioning.

Each time a card is used, a message shall be sent from the terminal to the lane controller and the Host Computer. At a minimum, the message shall contain the following:

- Employee ID number;
- Lane number;
- Current date;
- Current time; and
- Event (tour start, segment start).

The magnetic stripe reader shall be an integral part of the terminal and be environmentally designed to operate in a toll lane. The Contractor shall supply the reader and a five year supply of cards.

Operational Requirements

The toll terminal shall be powered on at all times, even when that particular lane is in the closed mode. Upon initial connection of the toll terminal, self-diagnostic tests shall automatically be performed in order to ensure that the terminal is functioning properly.

If a malfunction is detected during the self-diagnostic test, the terminal shall transmit a message to the lane controller unit indicating that a terminal malfunction has surfaced. The unit shall also attempt to identify the extend of the failure. A malfunction message shall be sent to the message display on the terminal in order to inform the Toll Collector that the terminal is inoperative.

If during the course of the self-diagnostic test no malfunction is encountered, the terminal shall send a message to the Host Computer indicating that the terminal has been successfully powered on. During the course of a successful power-on process, the lane controller unit shall download the current system time and date to initialize the terminal system clock. The current toll schedule shall also automatically updated. As the terminal is powered on, the employee badge number invalid list will be transmitted to the terminal.

The process of opening and closing a lane shall be designed in a way that will minimize the effort required by the operator to segregate transactions from one segment of duty (SOD)to the next. The system shall not allow a segment of duty to start or stop while a transaction is incomplete. If an ETC tag has been read in the lane or a vehicle is present at the Toll Collector's booth and the classification has been entered, the transaction must be completed prior to a change of SOD.

To open a toll lane, the Toll Collector shall swipe or insert his/her magnetic stripe badge through or into the card reader. If the badge number is not a valid collector badge number, a message stating this shall be displayed on the terminal and the procedure shall be automatically terminated. When the Toll Collector badge number is correctly read, the following shall occur:

- The canopy signal shall change from red to green;
- The traffic light shall set to red (if already not in this condition);
- A "lane open" message shall be generated by the terminal and sent to the lane controller unit;
- A new segment-of -duty (SOD) file message shall be established for transaction message updating;
- The terminal display shall show a "lane open" message; and
- The Supervisor's workstation shall show the toll lane as being in the open mode.

In the event that the Toll collector badge is not read properly, an opportunity shall be provided for the Collector to enter his/her badge number manually. The Collector shall request the toll supervisor to enable a keyed log-in. When authorized by the toll supervisor, the Collector shall manually enter the badge number (including check digit) on the terminal key board. Upon valid entry of the badge number, the above lane open steps shall occur, with the only exception being that the lane open and SOD message shall indicate that the toll lane was opened via a manual procedure.

The ability to manually long-on and log-off a terminal with a maintenance badge number shall be integrated into the toll system. Initiating the lane open procedure with a maintenance badge shall cause the above lane open steps to occur, except that the booth canopy light shall remain red during the maintenance segment of duty. All revenue and traffic data generated during a maintenance segment shall be filtered out of the actual traffic and revenue reports.

Just prior to closing a toll lane, the Toll Collector shall have the option of first placing the lane in standby mode. After pressing a "STANDBY" button on the terminal keyboard, the plaza canopy light shall change from green to red, but the terminal and lane components shall continue to operate in a normal fashion. This feature shall warn patrons who are approaching the toll plaza that the lane is now closed and is no longer available for vehicle processing.

Placing the terminal in standby mode shall generate a message to be sent to the Host Computer and also display the lane status on the Supervisor's workstation screen. Upon entering the standby mode, the only way for a Collector to exit that particular terminal status would be to log-off and back on again. There shall be an indication on the terminal that shows the Collector that he/she is in the standby mode.

To close a toll lane, the Toll Collector shall swipe or insert his/her Collector badge through or into the card reader. When the collector badge number is properly read, the terminal shall automatically log-off and the following events shall occur:

- The canopy signal shall change to red;
- The traffic light shall change from green to red (if already not in this position);
- A "lane closed" message shall be generated by the terminal and sent to the lane controller unit;
- The current segment of duty shall be closed and sent to the plaza computer;
- The terminal display shall show a "lane closed" message; and
- The Supervisor's workstation shall show that the lane is n ow in the closed mode.

In the event the Collector badge number is not read properly, an option shall be provided to manually close the toll lane. The Collector shall manually enter the badge number (including the check digit) on the terminal keyboard. After manually closing the lane, the above lane close events shall occur, with the exception that the lane closed message shall indicate that the toll lane was closed in the manual mode. The lane closing procedure, both in the normal and manual mode, shall also apply for maintenance badges.

The terminal shall have provisions for the classification of vehicles. The vehicle classification shall be processed first, followed by the method of payment determination. The transaction currently being processed would be able to be successfully changed until the method of payment key is activated. Depressing the classification key shall cause the toll due to be displayed on the patron fare display and on the Collector's terminal message display. The terminal display and patron fare display shall continue to display the most recent classification until the next transaction is processed, or a thirty (30) second "time out" elapses. The vehicle classification count and associated cash amount shall be updated in the current SOD file each time a transaction is successfully completed. A transaction message shall be sent to the plaza computer to be used in updating the supervisor's workstation status display. Upon crossing the vehicle detector loop and treadle, associated fields in the SOD message shall also be updated.

While the lane is open, the Collector will be classifying and accepting payment from each paying motorist. When vehicles with ETC tags enter the lane, the toll terminal shall so advise the Collector. An audible indication shall be provided in addition to an appropriate message on the toll terminal display. If the motorist has an ETC tag but wishes to pay cash, the terminal design shall support this procedure and shall properly record the transaction.

The toll attendant will visually determine the vehicle classification and communicate it to the lane controller by pressing a "class key" on the terminal's keypad representing the classification. The lane controller shall calculate the toll due and display it on the terminal's display as well as the patron fare display. The attendant will accept payment from the patron. If a receipt is requested, the attendant presses the receipt key activating the printer. The receipt may be requested up until the point that the vehicle crosses the exit loop.

The terminal shall permit other types of data entry such as toll fare exceptions, extra axles, classification exceptions, etc.

Electrical Requirements

Toll collectors terminals shall operate on 115VAC 60Hz or a low voltage system, provided such low voltage system is provided by the contractor as an integral part of the toll collection system.

Connection point(s) to receipt printer must be clearly labeled by permanent printing or etching. Connection point(s) to receipt printer must be unique and must be keyed to avoid misalignment of printer cable(s).

Reliability

The toll attendant's terminal shall have a MTBF of 30,000 hours and a MTTR of 15 minutes.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment Data Sheets;
- Performance specifications;
- Complete as built drawings of the equipment and installation;
- Complete parts list, including manufacturer and manufacturers part number;
- Maintenance manual;
- Circuit board pictures identifying major components; and
- Operating Manual.

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Receipt Printer

Receipt Printers will be provided in all six (6) manual ETC lanes of the mainline plaza. Each of these lanes shall be equipped with an industrial quality Receipt Printer, which shall be a separate unit from the terminal. The printer will print a receipt at the request of the Toll Collector after a valid cash transaction. Printing will be at highest possible speed as not to slow lane operations. Receipt print time shall be 2.5 seconds or less. The replenishment of receipt paper will be possible by the Toll Collector without utilizing tools.

This work shall include the provision of the receipt printers and supplies as described below and all labor, materials, and services necessary to accomplish the design, development, fabrication, integration, testing, installation, and acceptance of the printers in accordance with these specifications.

Design Requirements

The freestanding receipt printer unit will be located on the counter of the toll booth, next to the toll terminal, and designed to fit such appropriate space. It shall be designed in such a manner as to allow non-technical personnel to physically exchange the entire unit in case of failure.

The receipt printer shall also be designed to allow toll collection personnel to easily replace receipt printer paper, without affecting normal operation in the toll lane, and without requiring any tools. Access to change paper will not permit access to electronics, and the electronics section of the printer will require a key to access. Printers will use standard thermal cash register roll paper, approximately 2.25 inches wide, readily available from at least two (2) suppliers. The Printers will have a capacity of no less than 2000 receipts, approximately 2.5 inches long each, per roll of paper.

Receipt design must be changeable and will be determined by *FD/MK* in consultation with the Contractor. At a minimum, receipt will contain facility name, date, time, lane number, and toll paid.

The printer electronics shall include the drive electronics, interfaces to lane controller and/or toll terminal, and associated circuitry. The printer shall include receipt transport device, driver logic, paper roll assembly, power supply, and other necessary parts to meet operational requirements.

Printers will be housed in stainless steel or equally corrosion resistant material. Housing must meet environmental requirements defined elsewhere in this document. The receipt printers shall have a MTBF of 4,000 hours minimum and a MTTR of one hour maximum.

Operational Requirements

A receipt shall only be generated upon request by the Toll Collector, and only one receipt shall be provided for each successfully completed transaction. Receipts shall not be provided, even upon request of the Toll Collector, after ETC transactions. Receipts for cash transactions shall be printed in 2.5 seconds or less after the appropriate button is pushed. Receipts for Insufficient Funds and Non-revenue transactions may take longer to print. In addition, a receipt test routine will be available from the toll terminal.

Upon completion of printing, a receipt will be cut but held in place until Collector removes receipt, to avoid wind blowing receipt away.

Printers shall have status lights for power on, paper jam, paper low, and communications lost (communications feed to lane controller and/or toll terminal lost.) A paper low indicator will light and an audible beep sounded when a supply of approximately 25 receipts are left on roll. An audible beep will sound each time a receipt is printed and paper is low (less than 25 receipts remaining).

Electrical Requirements

Receipt printers will operate on similar electrical current as toll terminal or can be supplied directly from the toll terminal. However, power draw of receipt printer shall not exceed 5 AMPS at 115VAC.

Documentation Requirements

Two complete sets of documentation shall be provided by the contractor in accordance with guidelines in Documentation section of this RFP. The documentation shall include at least the following:

- Equipment data sheets;
- Performance specifications;
- Complete as built drawings;
- Complete parts list, including manufacturer and manufacturers part number; and
- Maintenance manual.

Supplies

The Contractor will supply 400 rolls of receipt paper satisfying the design conditions for use in receipt printers at system startup.

Testing

Receipt Printers will be tested according to the test schedule. Factory tests will include all receipt printer operations including printer test, cash transaction, non-revenue transaction, insufficient funds transactions, ETC transaction, etc. Also included will be the testing of replacing receipt paper roll, attempts to open printer electronics area, and disconnection and replacement of printer through cable disconnects and reconnects. Overall size, housing, and design will be evaluated to meet design and operational criteria.

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Maintenance

Under terms of the Warranty Period and any executed Options, Contractor shall be responsible for receipt printer maintenance. Receipt paper will be supplied by *FD/MK*.

ACM Receipt Printers

Receipt printers will also be provided as part of the ramp plaza ACM machines. Such printers will be an integral part of the ACM machine cabinet front and easily accessible to patrons inside vehicles.

This work shall include the provision of the ACM receipt printers and supplies as described below and all labor, materials, and services necessary to accomplish the design, development, fabrication, integration, testing, installation, and acceptance of the printers in accordance with these specifications.

Design Requirements

ACM Receipt Printers shall be of a type supported by the ACM manufacturer. Receipts must print in 2.5 seconds or less. Receipt paper rolls will be designed for at least 2000, 2.5 inch long receipts per roll.

ACM Receipt Printers shall be designed for easy replenishment of receipt roll paper. Replenishment shall be simple enough to accomplish in five (5) minutes or less and shall require a minimum amount of training.

The printer electronics shall include the drive electronics, interfaces to lane controller, and associated circuitry necessary to meet these requirements. The printer will also include receipt transport device, driver logic, paper roll assembly, power supply, and other necessary parts to meet operational requirements.

The ACM receipt printers shall have a MTBF of 4,000 hours minimum and a MTTR of one hour maximum.

Operational Requirements

Upon pressing receipt button and after a successful cash transaction, a receipt will be issued. Only one receipt per transaction will be issued. Receipts will not be issued for ETC transactions, even upon request by patron. Receipts must be cut from roll once printed and ejected far enough for patron to reach receipt. However, receipt must be held firmly until pulled by patron to avoid receipt being dropped or blown away.

A manual method for issuing a test receipt by entering a test command into the lane controller shall be provided.

When a minimum of 200 receipts remain on printer roll, printer will send a maintenance diagnostic message to toll supervisors workstation.

Electrical Requirements

ACM receipt printers will operate on same power as ACM machine or will feed directly off an internal ACM supply if designed to do so. Cabling to printer from other devices (interface and electric supply) must be of a type which allows easy disconnect and reconnect of a replacement printer.

Documentation

Two complete sets of documentation shall be provided by the contractor in accordance with guidelines in Documentation section of this RFP. The documentation shall include at least the following:

- Equipment data sheets;
- Performance specifications;
- Complete as built drawings;
- Complete parts list, including manufacturer and manufacturers part number; and
- Maintenance manual.

Supplies

Contractor shall supply 200 rolls of receipt paper for use in ACM receipt printers at system startup. Further supplies of ACM receipt paper must be readily available from at least two (2) sources.

Testing

ACM Receipt Printers shall be tested according to the test schedule. Factory tests shall include all receipt printer operations including printer test, cash transaction, and ETC transaction. Also included will be the testing of replacing receipt paper roll and disconnection and replacement of printer through cable disconnects and reconnects.

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Maintenance

Under terms of Warranty Period and any executed Options, Contractor shall be responsible for ACM receipt printer maintenance.

Patron fare display

The Contractor shall provide a patron fare display in each of the six (6) Manual/ETC Lanes at the Mainline Toll Plaza and a patron fare display as an integral part of each of the two (2) ramp plaza ACM machines as outlined in the section Automatic Coin Machine. This work shall include all labor, material, and services necessary to accomplish the design, development, fabrication, integration, testing, installation, and acceptance of the fare display in accordance with these specifications.

The patron fare display shall be placed in such a manner as to be easily read by the patron. The manual ETC lane display shall be blank until the toll collector has indicated the vehicle classification and the lane controller has calculated the toll due. The lane controller will then send the toll due to the fare display. The fare display will clear when the vehicle has left the lane.

Design Requirements

The patron fare display shall be a variable three line five characters per line alphanumeric display for the toll amounts, change amounts and messages for observation by the patrons. Toll amounts shall be shown in dollars and cents ($XX.XX). Leading zeros shall not be displayed.

The display modules shall be easily read in all light

The patron fare display shall be integrated into the toll collection system and shall be controlled by the lane controller. The Contractor will be responsible for integration to the lane controller.

Reliability Requirements

The patron fare display shall have a mean time between failures (MTBF) of 2,500 hours minimum and a mean time to repair (MTTR) of 1 hour maximum.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment data sheets;
- Performance specifications;
- Complete as built drawings;
- Complete parts list, including manufacturer and manufacturers part number; and
- Maintenance manual

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Intercom subsystem

The Contractor shall furnish and install a complete microprocessor controlled, duplex voice communication system. The system shall include a toll booth station in five (5) of the six toll booths, a master station in the Mainline toll plaza administration building, a master station in one of the Mainline Toll Plaza manual lanes (to be designated at the time of installation), and two automatic coin machine (ACM) stations at each of the two ramp plazas. One of the stations will be accessible to motorist using the ACM and the other shall be inside the ACM accessible to service personnel. The system shall include all necessary boards, power supplies, master control stations, substations, receptacles, special mounting boxes, loudspeakers, terminal boards, cable, connectors, and accessories for a complete operational communication system.

The system shall include two (2) duplex master stations with handsets, five (5) tollbooth substations (wall mounted) and two (2) ramp plaza substations with loudspeakers.

System Operational Functions

Each substation (either a toll booth or ACM) shall be programmed to call the master station at the Mainline Toll Plaza administration building. The call will be identified on the master station and a distinctive tone shall sound. If there is no response at the administration building after a predetermined time, the call shall automatically be redirected to the second master station located in one of the toll booths.

Each master station shall be capable of redirecting substation calls to the other master station without waiting for a predetermined time out (creating the ability for either substation to be the prime unit).

Each substation shall be a full duplex, hands free unit. Normal conversation shall be conducted between a substation and a master without a handset. Each master station shall have the choice of either hands free or using a handset.

The two (2) ACM mounted substations shall be designed to withstand vandalism and weather. There shall be a large environmentally protected button to be used by a vehicle driver to place a call. The speaker shall be waterproof. The Contractor shall coordinate the integration of the intercom substation into the ACM with the supplier of the ACM. The unit should be internal leaving the front panel of the ACM smooth except for the activation button. The intercom shall be well integrated and not have the appearance of being "hung on" the front of the ACM.

The Contractor shall supply two (2) loud speakers (one at each ramp plaza). The loud speakers will allow the user at either of the two masters to speak to anyone in the vicinity of the ACMs.

Data communications between the ramp plazas and the Mainline Toll Plaza administration building will be via fibre optic cable.

Reliability Requirements

The intercom system shall have a mean time between failures (MTBF) of 4000 hours minimum and a mean time to repair (MTTR) of 1 hour maximum.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment data sheets;
- Performance specifications;
- Complete as built drawings;
- Complete parts list, including manufacturer and manufacturers part number;
- Maintenance manual; and
- Operations manual.

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Video surveillance subsystem (security)

The contractor shall provide a video surveillance subsystem to assist in providing security at both the mainline plaza and the ramp plaza locations. The subsystem shall include one (1) PTZ color camera at each of the two ramp plazas placed in such a manner as to concentrate on the area of the ACM and interacting driver but able to pan, tilt, or zoom to other areas of the plaza. At the mainline plaza, one (1) PTZ color camera shall be placed in each Manual/ETC and each ACM/ETC lane in such a manner as to concentrate on the area of interaction between drivers and the toll collector or ACM. Additionally, two (2) color monitors to be located at the Mainline Toll Plaza administration building and at one toll booth, one (1) 8 channel sequential switcher, and one (1) time-lapse VCR. This work further includes all labor, material and services necessary to accomplish the design, development, fabrication, integration, testing, installation, and acceptance of the video surveillance system.

A pan/tilt/zoom camera will be installed on the overhead gantry in a position allowing observation of the automatic coin machine (ACM) or toll collector and the space between the ACM or toll collector's booth and a vehicle in the adjacent lane. The camera shall be mounted on a pan/tilt/zoom mechanism allowing observation of the entire area surrounding the ACM or toll collector's booth. The image captured by the camera shall be transmitted via fiber optic cable (provided by the Contractor) to a monitor in the supervisor's area in the administration building at the Mainline Toll Plaza. A second monitor shall be placed in the toll attendant's booth containing the master intercom station.

Provision shall be made for encoding a data stream from the lane controller onto the CCTV signal for all cameras located at the plazas.

Controls for the PTZ operations of the cameras shall be located at each monitor location.

A S-VHS/VHS high density time-lapse recorder/player shall be located in the supervisor's area at the Mainline Toll Plaza. The recorder/player shall have the ability to be switched to real time and fixed on one of the ramp plazas.

A sequential switcher shall be provided allowing automatic switching between cameras at intervals defined by the user. In addition to switching between cameras for normal observation and recording, the switcher shall monitor up to 8 alarm sensors. Each alarm sensor shall control one camera. If the alarm is activated, the switcher will automatically switch to its related camera and hold on it. Additionally, the switcher shall have an alarm output that will activate the VCR alarm and switch the VCR to real time mode for recording in greater detail during the alarm period.

The Contractor shall be responsible for providing a compete surveillance subsystem as specified including all mounting brackets, cables, connectors, labor, and services. The contractor shall provide adequate lighting at each ramp plaza to assure image quality similar to daytime conditions.

The Contractor shall provide sufficient tapes for the recorder/player for one (1) weeks worth of continuous monitoring in normal mode.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment data sheets;
- Performance specifications;
- Complete as built drawings;
- Complete parts list, including manufacturer and manufacturers part number; and
- Maintenance manual.

Testing

Contractor shall demonstrate proper functional operation of the video surveillance subsystem at the factory test, in lane verification testing and during the operational acceptance test.

UPS for Ramp Plaza

An Uninterruptible Power Supply (UPS) shall be provided at each ramp plaza to allow for full toll collection operations in case of power failure or brown-out. The UPS will also act as a filtering and power conditioning device for all equipment operating from UPS during normal operations.

This work shall include the provision of ramp plaza UPS as described below and all labor, materials, and services necessary to accomplish the design, development, fabrication, integration, testing, installation, and acceptance of the UPS in accordance with these specifications.

Design Requirements

The Ramp Plaza UPS shall be sized to operate all toll collection equipment, including surveillance cameras and intercom system, for a period of fifteen minutes after power failure such that toll collection can continue.

The Ramp Plaza UPS will not be required to run ACM environmental equipment, receipt printers, traffic signal, or general building power.

UPS batteries will be of sealed type and provided in environmental cabinets. The proposal shall specify the KVA rating, make and model of the Ramp Plaza UPS System proposed.

Operational Requirements

When operating in normal mode, each UPS shall act as a power filter and conditioning device for all attached equipment. A standby ready message shall be displayed at the plaza supervisor workstation. At power failure, the UPS will supply power to continue toll collection activities for up to 15 minutes from failure. Switching to UPS power shall be fast enough such that no transaction data is lost and no part of the toll equipment powers down. When operating in supply mode, the UPS shall send a UPS supply message to the plaza supervisor station. Near the end of the 15 minute period, a shutdown eminent message shall be sent to the toll supervisor workstation. This notification will occur in such time as to allow proper shutdown of ramp plaza lane controller and attached equipment before any data is lost.

If line power should return during the 15 minute supply period, UPS will return to normal mode but will continue to send a "charging" message to the plaza supervisors workstation while the batteries are not at full strength. Also, if at anytime during normal operations batteries are not a full strength, the "charging" message will show at the plaza supervisor workstation.

When regular power returns after shutdown, UPS will automatically reset, supply power for attached equipment, and begin re-charging.

The UPS shall have the ability to send maintenance diagnostic messages to the toll supervisor workstation if problems surface.

Electrical Requirements

The 115VAC 60Hz electrical power to feed the UPS shall be provided by others. The Contractor shall install the power cabling (utility and UPS) to the lane equipment.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment data sheets;
- Performance specifications;
- Complete as built drawings;
- Complete parts list, including manufacturer and manufacturers part number; and
- Maintenance manual.

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

UPS for Mainline Plaza

An Uninterruptible Power Supply (UPS) shall be provided at the mainline plaza to allow for full toll collection operations in case of power failure or brown-out. The UPS will also act as a filtering and power conditioning device for all equipment operating from UPS during normal operations.

This work shall include the provision of the mainline plaza UPS as described below and all labor, materials, and services necessary to accomplish the design, development, fabrication, integration, testing, installation, and acceptance of the UPS in accordance with these specifications.

Design Requirements

The mainline plaza UPS shall be sized to operate all toll collection equipment, including surveillance cameras and intercom system, for a period of fifteen minutes after power failure such that toll collection can continue. An emergency electric generator (provided by others) should have begun operation within the 15 minute period.

The Mainline Plaza UPS shall not be required to run booth or ACM environmental equipment, receipt printers, traffic signals, canopy lights, or general power to the plaza building.

UPS batteries will be of sealed type and provided in environmental cabinets. The proposal shall specify the KVA rating, make and model of the Mainline Plaza UPS System proposed.

Operational Requirements

When operating in normal mode, the UPS shall act as a power filter and conditioning device for all attached equipment. At power failure, UPS shall supply power to continue toll collection activities for up to 15 minutes from failure. Switching to UPS power shall be fast enough such that no transaction data is lost and no part of the toll equipment powers down. When the remaining UPS capacity has been reduced so that only five (5) minutes of operation remain, the Host Computer shall be alerted so that it may have time to conduct an orderly shutdown.

An emergency power generator, supplied by another party, shall supply power after power failure. When emergency generator power is supplied to the UPS, it shall return to normal or charging operations (as appropriate) and condition and filter generator supply to be used by equipment powered by UPS. Plaza toll operations should, at this point, be able to restart. Similarly, when regular line power returns, UPS should return to normal or charging operations and supply conditioned power to attached equipment.

At anytime the UPS batteries are not at full charge, a charging message shall be sent to the supervisor workstation. The UPS shall also have the ability to send maintenance diagnostic messages to the toll supervisor workstation if problems surface.

Electrical Requirements

Sufficient power shall be supplied to the Contractor for UPS by another party. , It is the responsibility of the contractor to make sure UPS is properly connected to supply circuits which are backed by the generator system, and to coordinate with generator system supplier for proper integration of UPS and generator system such that all design requirements are met.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment data sheets;
- Performance specifications;
- Complete as built drawings;
- Complete parts list, including manufacturer and manufacturers part number; and
- Maintenance manual.

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Automatic Coin Machine

The Contractor shall provide an automatic coin machine (ACM) at each of the two Automatic Coin Machine/ETC lanes at the ramp plazas. The ACM shall be partially enclosed in the ramp plaza utility building which shall be provided by others. The work under this section shall include all labor, materials and support services to complete the design, fabrication, programming, testing, integration and acceptance of two (2) automatic coin machines (ACMs) in accordance with the requirements of these specifications.

Design Requirements

The ACMs shall be designed, fabricated and tested to ensure that the ACMs will operate satisfactorily and accurately without material degradation or reduction in performance. Each ACM shall consist of the following major elements or assemblies.

1	Cabinet or housing unit to accommodate all internal devices.
1	Flexible coin hopper mounted on the exterior of each cabinet and one pare unit.
1	Coin processor assembly for counting coins and tokens. Must be able to process five (5) coins in 1.5 seconds or less.
1	Microcomputer with associated controls.
1	Dual vault assembly with electronic vault identification logic.
1	Security system interface for cabinet alarms.
1	Slot reader assembly for reading magnetic stripe cards and keypad.
1	Reject receptacle for returning invalid coins to patron.
1	Receipt printer assembly for issuing on demand receipts to patron.
1	Decrementing fare display.
1	Heater and air conditioning system.
1	Audio intercom.
1	Vehicle loop detector unit (including loops) for ACM activation with vehicle presence.
8	Coin vaults with vault identification devices.

The ACM shall have complete control over the counting of coins and fare display. The ACM shall be able to indicate to the Lane Controller the complete transaction (transaction number, date, time, vault number, total collected for the transaction). It shall accept data from the Lane Controller (date, time, fare, etc.).

The dual vault system shall allow the secure, uninterrupted collection of coins when one vault is removed. The ACM shall detect, or calculate, when a vault is full and automatically switch to the second vault. There shall be an interface for electronically recording the vault numbers as they are inserted/removed from the ACM and sending the information to the lane controller.

The ACM shall have adequate internal diagnostics to allow any changes in ACM operation status or the status of any of its devices to be reported to the lane controller which shall show them as alarms on the toll supervisor's work station terminal.

The ACM coin processor shall be able to detect foreign coins, slugs, and debris and reject them. An anti-coin jam process shall be available within the coin acceptor mechanism. The coin recognition system shall recognize US coins and tokens ranging in size from the US dime to the US half dollar and the Susan B. Anthony dollar. Coin processing shall have an accuracy of 99.96%.

An audio intercom shall be integrated into the coin machine and connected to both a supervisor's work station in the Mainline Toll Plaza admin. bldg. and one of the toll collector booths at the Mainline Toll Plaza manual lanes. (See Intercom Subsystem)

The Contractor shall be responsible for investigating all field conditions and installation requirements.

The Contractor shall be responsible for the integration of the ACM to the Lane Controller, ETC system, traffic signal, etc.

The magnetic card reader and keypad shall provide secure access to the ACM and removal of vaults. A valid card must be inserted and an associated PIN entered on the keypad to gain access or remove a vault.

The ACM shall have heating and cooling capabilities to maintain the proper temperature and humidity for maximum operating efficiency.

The coin vaults shall be fabricated to be a secure assembly for coin collection in the ACM lanes. The top of the vault shall close and lock as the unit is removed from the ACM. At least one vault, of the two vault system, must be in place in order for the ACM to function. Coin vaults shall be made of aluminum or stainless steel.

The size of the ACM cabinet, not including the coin hopper dimensions, shall be such that it fits in the space provided in the ramp lane building and forms a tight, secure seal with the building around the area where the faceplate and coin hopper protrude through the building allowing easy driver use. The Proposer shall confirm the ACM cabinet dimensions and access door locations within the proposal.

There shall be a patron fare display integrated into the coin machine. It shall reset to the default fare and decrement as coins are counted. The display characters shall be a minimum of 2" tall and readable in bright sunlight and complete darkness. The message "DEPOSIT" shall be located above the display.

Details of the ACM including the vaults, display and receipt printer shall be provided in the proposal.

Operational Requirements

Each lane, when a vehicle is not present, shall have a lane traffic light with red illuminated. The ACM shall display the default fare. The patron will put coins in the ACM coin hopper. As the coins are counted, the displayed fare will decrement. When the default fare has been paid, the ACM will indicate the paid status to the lane controller. The lane controller will switch the lights in the lane traffic light from red to green. When the vehicle passes over a vehicle detection loop located as it exits the lane, the ACM will reset (change the display to the default fare). The lane controller will switch the lane traffic light from green to red.

If the vehicle has a valid tag, the lane controller shall send a fare due of $00.00 to the fare display, switch the lane traffic light from red to green, and reset the ACM. (Alternatively, if ETC account balance is low, traffic light will switch to yellow "Low" light instead of green light.) When the vehicle passes over a vehicle detection loop as it exits the lane, the lane controller will switch the lane traffic light from green or yellow to red and reset the patron fare display to the default fare.

The ACM logic will send a vehicle count from the closing loop at the lane exit, method of payment (ETC/cash), the amount of payment, and a transaction number to the lane controller for each vehicle passing through the lane.

Software/Firmware Requirements

Self-diagnostic software/firmware shall be provided to test the ACM when the ACM lane is opened and to operate interactively to detect malfunctions and failures and to report such failures to the lane controller at the time of occurrence. Diagnostics shall be callable from a remote location with appropriate outputs to reflect the status of the equipment.

Electrical Requirements

The ACM shall operate on 115 VAC 60 HZ power and shall be equipped with an electrical panel containing functional and operational status indicators, circuit breakers, power on/off switch, a maintenance light and dual convenience power outlet with ground fault detectors. All electrical interconnects shall be achieved by connectors which shall be keyed to ensure correct orientation.
All conduit and wires for the ACM, for communications, and for connection to lane sensors associated with the ACM shall be provided and installed by the contractor.

Reliability Requirements

The ACM shall have a mean time between failures (MTBF) of 2,500 hours and a mean time to repair (MTTR) of 1 hour.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment data sheets;
- Operations manual reflecting as built condition;
- Performance specifications;
- Complete parts list, including manufacturer and manufacturers' part number;
- Maintenance manual/trouble shooting procedures including theory of operation; and
- Circuit board pictures, identifying major components.

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Data Communications System

Fiber Optic Network - The Contractor shall furnish and install a fiber optic network between the Mainline Toll Plaza administration building and one of the Ramp Plaza control buildings and between the two Ramp Plaza control buildings. This work item shall include the provision of a fiber optic cable with a minimum of 56 fibers, waterproof duct, splices, connections, field cabinets, signal interfacing equipment, adapters, and terminators. It further includes all labor material and services necessary to accomplish the design, development, fabrication, integration, testing, installation, and acceptance of the fiber optic network in accordance with these specifications.

The fiber optic network shall be located within the roadway right of way, but removed from the traffic lanes and highway shoulders except where it is necessary to cross the roadway to connect the two Ramp Plaza buildings. It shall be buried to a depth of not less than 1 meter and be inside a waterproof duct to be provided by the Contractor. The Contractor shall determine the final placement and installation techniques and submit them to *FD/MK* for review and approval. Installation techniques shall include routing the cable under and/or around any buried or exposed obstructions. Where crossing the roadway to provide communications between Ramp Plaza buildings, the Contractor must bore beneath the highway at a depth below all base material used for road construction. There shall not be any splices in the cable located under the roadway.

At a minimum, the fiber optic network shall provide a direct communication link from each of the ramp plazas and the Mainline Toll Plaza administration building for the intercom subsystem, the video surveillance subsystem, and data communications between the lane controllers at each ramp plaza and the Host computer.

The duct size shall be large enough to add a second cable of equal size at a future date. Field cabinets shall be located at each point requiring splicing of the cable. Performance loss due to connection devices and/or splices shall not cause any loss of performance of any of the connected subsystems.

The Contractor shall provide any devices (line drivers, etc) required to meet the specifications of the connected subsystems.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

As built drawings for the Fiber Optic network including all splicing detail;
Equipment data sheets;
Operations manuals reflecting as built condition;

Performance specifications;
Complete parts list, including manufacturer and manufacturers part number;
Maintenance manuals/trouble shooting procedures including theory of operation; and
Circuit board pictures, identifying major components.

Testing

The fiber optic network will be tested at the end of installation for signal loss across the network. It will be inspected during installation to assure proper installation and depth. It will be tested repeatedly as part of the testing of each connected subsystem.

The Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Inter-Module Communications - Data communications between individual modules in the system shall be consistent. There shall be selectable RS232 9600 to 28,800 serial baud rates via UL approved female sockets.

File or record transfer protocol shall be compatible between modules. The Contractor shall provide detailed file and record transfer protocol in a format easily understood by data processing professionals. In the case of the VDOT FasToll Customer Service Center data exchange with the toll system Host Computer, VDOT FCSC shall be the controlling agency. The Contractor is not to expect VDOT to make changes to accommodate the Contractor.

All modems supplied with the project shall be the fastest modems generally available at the time of installation and have selectable baud rates that match the baud rates of the equipment to which they will be integrated.

Proposers varying from this must submit an exception statement with the proposal. Exceptions will be considered and accepted or rejected at the exclusive discretion of *FD/MK*.

Maintenance

The Toll Collection System described in this document shall be designed to provide for a high level of maintainability. It is intended that the toll system shall be fully maintained by the Contractor from date of Final Acceptance of the system through the end of the Warranty Period. Maintenance support shall also be provided for the duration of any subsequent Maintenance Options that may be selected.

Maintenance Personnel

Maintenance shall be provided through field service, operational testing, remote diagnostics and control, and by maintenance personnel either on-call or on-duty 24 hours a day, seven days a week throughout the entire Warranty Period and any exercised Options.

Maintenance Procedures and Repair Times

The objective of the maintenance program during the warranty period shall be to limit all equipment repairs to exchanging major components (e.g. a toll terminal or treadle). Replaced components shall then be promptly sent to the factory for repair or replacement and returned to spares inventory for future use. During the warranty period, the Contractor will train VDOT's personnel to perform preventative maintenance and to solve maintenance problems including the exchange of components.

At the end of the warranty period, VDOT will decide if VDOT's personnel are qualified to perform routine maintenance on the system. If it is determined that VDOT's personnel are qualified, the Contractor will become a "consultant" to VDOT's maintenance personnel and assist in solving maintenance problems that are beyond their skills. The Contractor shall propose an hourly rate for such services.

All malfunctions which inhibit toll collection or audit shall be remedied within a total four hour period after notification. A response time of two hours is permitted from malfunction notification. An additional two hours is then allowed for repair. The total time shall be measured from the time the problem is first reported by the Host Computer System (or in case of failure of the Host Computer System to report a malfunction, the time from notification of the Contractor of the malfunction) until the particular component is back on-line and functioning at full capacity. Replacement with spare units shall satisfy the repair times. However, spare units shall be promptly repaired or replaced by the Contractor to ensure that they are continually available for use. Lack of available spare units or parts shall not obviate the need for the Contractor to meet repair times. MTTRs given elsewhere in this proposal for components will be held to, regardless of the total time allowed for repair given above.

Preventative Maintenance for Mechanical Equipment

A complete schedule of proposed preventative maintenance procedures shall be set forth in the Maintenance Plan to be submitted within sixty (60) days after approval of the Factory Tests. Upon approval by VDOT, the Maintenance Plan shall be adhered to through the entire term of the Warranty Period and any elected optional maintenance periods. VDOT may, based on actual operational experience, reasonably require revisions to the Maintenance Plan to ensure that the System functions properly. The Contractor shall make and adhere to such revisions.

At a minimum, maintenance personnel shall make routine general inspections of System equipment at least once every two-weeks.

Preventative maintenance shall include all mechanical equipment supplied by Contractor including Patron Fare Indicator, ACM's, Traffic Lights, Canopy Lights, Treadle System, Receipt Printers, Host Computer Printers, UPS's, all electronic equipment fans and filters, and surveillance system mechanical components.

Software Maintenance

As a part of system maintenance, the Contractor shall maintain, modify, debug and/or upgrade all System software, both custom software and third party software, as required to ensure that the Systems performs as it did at system acceptance. The Contractor shall provide qualified personnel who are familiar with the System and/or are adequately trained for this task. Programmers may conduct work from remote sites if approved by VDOT. All changes made to System software shall be properly documented in the appropriate manuals and documentation.
Software source code for all components shall be provided to VDOT or put into escrow to allow access to change software should Contractor be unable to provide software support.

Warranty Period

The Warranty Period shall begin at system acceptance and continue through a period of two (2) years. Following the conclusion of The Warranty Period, VDOT shall have the Option to exercise further full maintenance support for five additional one year periods. The annual price of the maintenance Options will be determined by application of a cost escalator factor to the initial Maintenance Option price stated in the proposal. The cost escalator shall be _____.

Spare components

A satisfactory means of obtaining spare parts and toll equipment components through the life of the proposed toll system must be made by the Contractor. This requirement will be met regardless of whether or not any Maintenance Options are executed. The design life of the toll system is 15 years.

Fully assembled and tested spare parts and components shall be provided during the Warranty Period and any exercised Options, in reasonable minimum quantities as identified in the Maintenance Plan, at no additional cost to VDOT. The Contractor shall include or maintain a comprehensive spare components parts list and parts inventory for all elements of the system in the Proposal.

All spare parts shall be numerically encoded with a parts list number. These parts shall be stored at the mainline plaza building. The Contractor, based on experience, shall closely monitor the need for spare parts and components and recommend any additions or deletions

to the inventory, subject to VDOT's approval. All spares shall be maintained in good operating condition at all times. A complete spares inventory, in good working condition shall be turned over, at no additional cost, to *FD/MK* at the conclusion of the Contractor's maintenance responsibility.

Spare Components and parts shall include but not be limited to:

- Lane Controllers;
- ETC Account Indicators/Lane Traffic Lights;
- n Canopy lane status lights;
- ETC Readers;
- ETC Lane Kits;
- Vehicle Classification Treadles;
- Toll Collector Terminals;
- Receipt Printers for Manual Lanes;
- Receipt Printers for ACM Lanes;
- Patron Fare Displays;
- Automatic Coin Machines;
- Automatic Coin Machine Baskets;
- Enforcement System;
- Host Computer System;
- Intercom System; and
- Surveillance System.

The cost for spare parts will be given on a detailed price list submitted with the proposal. This list will be used with appropriate cost escalator factors to purchase spare equipment after the Warranty Period and any executed Options have terminated.

The Proposer shall include a list of spare parts and components in the Proposal.

Maintenance equipment

The Contractor shall provide a complete set of all items, tools, and equipment necessary for the repair, testing, and routine preventative maintenance of the toll collection system, along with a list of such items. This list shall describe the specific function of each device, the approximate cost thereof, and the approximate quantity required for execution of the Maintenance Plan. At the end of the Warranty Period and any exercised Options, the Contractor shall promptly make available to VDOT at no cost, all maintenance equipment which is necessary for operations personal to properly maintain the System. The Contractor shall also provide any special instructions needed in connection with utilization of the maintenance equipment and tools.

Documentation

The contractor shall submit to *FD/MK* for review and approval and provide and update, as required, the following system documentation:

Conduit and Plaza Design/Modification Requirements

Shop Drawings
Wiring Diagrams
Test Plan
Training Plan
Installation Plan
Maintenance Plan
Software Documentation
    Software Specification
    Software Development Plan
Manuals
    Toll Collector Manual
        Remote Operations of Ramp Lanes from Booth Manual
    Toll Supervisor Manual
    Maintenance Manual
    Violation Enforcement Sub-System Manual
Parts Lists and Catalogs
As-Built Drawings

All documentation shall become the property of *FD/MK*.

Conduit and Plaza Design/Modification Requirements

The Contractor shall submit to *FD/MK*, within sixty (60) days of notice to proceed, detailed plans for conduit and plaza modifications (above and beyond existing design at notice to proceed) necessary to execute the contract and fully install the System. The Contractor must then coordinate with the project engineer to assure that all necessary modifications to design plans are executed.

Shop Drawings

The Contractor shall prepare accurate and complete Shop Drawings covering all aspects of the work. The general form and required detail of the working drawings shall be subject to approval of *FD/MK*. Shop Drawings shall clearly, and in detail, show the design of all components. Two reproducible copies of all Shop Drawings will be submitted to *FD/MK* no more than one hundred and twenty (120) days after Notice to Proceed and at least ten (10) business days before the Contractor commences toll equipment fabrication. *FD/MK* shall provide an approval or rejection of each Shop Drawing within ten (10) business days after

receipt. Review of Shop Drawings is for general adequacy and overall consistency with system requirements.

Approval of such drawings does not relieve Contractor from responsibility to provide equipment in full compliance with this document. If corrections are required, drawings will be re-submitted until approved. Re-submission shall not be seen as a valid cause for delay in completing schedule requirements.

Shop Drawings are required for all components and housings to be fabricated or assembled by the Contractor. For items procured in a complete package by the Contractor from another manufacturer, the Contractor shall submit detailed drawings, service manuals, and other documentation prepared by the original manufacturer in lieu of Shop Drawings. This documentation shall be complete and sufficiently detailed to show all critical dimensions and technical and functional characteristics of each component.

Shop Drawings prepared by the Contractor shall include all views of component housings, keyboard layouts, module placement, internal architecture of terminals, lane controllers, ACMs, traffic signals, AVI systems, etc. All connection points between components shall also be indicated.

Wiring Diagrams

The Contractor shall prepare and update a detailed typical manual, ACM, and express ETC lane Wiring Diagram as installed. If installation of any equipment proves to be unique to a specific lane (such as lane with Surveillance System components), the Contractor shall provide a separate Wiring Diagram of that toll lane. The Wiring Diagrams shall show all toll equipment, cables, wired, routes, connections, power sources, and other equipment. All equipment shall be identified both by name and function. All cables and wires shall be identified as to size, location in conduits, functions, point-to-point connections and color coding. All connectors shall be labeled.

Additional Wiring Diagrams for all other equipment not covered by the above shall be prepared and provided under the conditions of the Shop Drawings, and later as-built diagrams provided after System Approval.

All Wiring Diagrams shall be submitted in reproducible form, with two copies provided.

Test Plan

The Contractor shall submit to *FD/MK* within ninety (90) days of Notice to Proceed, a detailed plan for testing all components of the System. This plan shall include component, system functional tests, and all other tests described in the System Tests section of this

document and component Tests as outlined with each piece of equipment. *FD/MK* will return comments on or approval of this plan within twenty (20) days of submission of plan.

The Contractor's Test Plan is subject to approval by *FD/MK*. *FD/MK* shall be permitted to participate in or observe any and all of these tests. Tentative dates for conducting tests should be included in the Test Plan. *FD/MK* has the right to request changes in Test Plan dates when such requests are submitted in writing, fourteen (14) days prior to scheduled test date.

Training Plan

A detailed schedule for satisfying all training requirements outlined in the Training section of this document shall be submitted to *FD/MK* for review and approval not more than ninety (90) days after Notice to Proceed. The plan shall include all types of training required for specific personnel, including:

- Toll Collectors;
- Toll Supervisors;
- Administrative Staff;
- Auditors;
- Violation Image Processors; and
- Maintenance Personnel.

The Training Plan shall include a complete description of each proposed course format and content, training techniques and objectives, instructor outlines, training equipment, and demonstration procedures. Training shall consist of classroom and "hands-on" equipment operation either in shop type set up or actual "live" lane equipment at *FD/MK*'s direction.

Installation Plan

A detailed Installation Plan shall be submitted by the Contractor in two phases; preliminary and final. The preliminary submission shall be made within ninety (90) days of Notice-to-Proceed. The final submission shall be made within one hundred eighty (180) days of Notice-to-Proceed, but no less than thirty (30) days prior to the commencement of toll collection equipment installation.

Both the preliminary and final Installation Plans shall be subject to the review and approval of *FD/MK* and/or its representatives. No changes shall be made following approval of the final Installation Plan without the written approval of *FD/MK*.

The Installation Plan shall include, but not necessarily be limited, to the following:

- Installation management procedures;
- Preliminary site work;

- Component installation sequence; and
- Completion schedules.

Maintenance Plan

The Contractor shall submit to *FD/MK* and VDOT a detailed Maintenance Plan for review and approval no more than one hundred (100) days after Notice-to-Proceed. The plan shall include maintenance staffing and administration, dispatch procedures, communication requirements, preventive maintenance techniques and schedules, support from outside maintenance service (for example, computer manufacturers), final maintenance equipment list and other details as may be required by *FD/MK* or VDOT.

Software Documentation

Software documentation for Application Software/Firmware shall include, but not be limited to the following elements:

- Overview description of software/firmware for each system and major subsystem, including data flow and other diagrams as necessary to demonstrate software structure and the relationship between individual application programs;

- Narratives describing each function of each individual program and relationship to the overall system (how called, names of other programs or routines called, and names of files or other data areas accessed by it);

- Formats of files, messages and data areas used by more than one program;

- Screen layouts or formats;

- Commented listings of all Application Software/Firmware. The listing of each program module shall describe the program's function, calling sequence and return sequence; and

- Documentation of all command, batch or other files used in the compilation linking, loading, and execution of Application Software/Firmware.

Documentation of the six (6) elements stated above shall be submitted to *FD/MK* for review and approval at three stages of software development, as follows:

1. **Preliminary Draft** - Within thirty (30) days following completion of a successful Factory Demonstration.
2. **Final Draft** - Upon successful completion of final Post-Installation Testing.
3. **Final** - Within thirty (30) days after issuance of Final System Acceptance.

The failure to detect any functional deficiencies in the Application Software/Firmware documentation shall not relieve the Contractor of any responsibilities under this Contract.

Programming manuals shall be available for programmer level personnel for all languages used in development of the toll collection equipment system. For operating systems, communication programs, assemblers, compilers, and utility programs used to develop and operate the software and toll equipment, the Manufacturer's standard manuals shall be available. The most current version operating system software, with the highest level of manufacturer support at the time of equipment installation, shall be used and provided on magnetic tape, or other *FD/MK* approved media.

All documentation, other than that describing Application Software/Firmware, shall be submitted at the time of installation of the toll collection equipment.

As noted in Software Maintenance, software source code for all components shall be supplied or put into escrow to allow access to change software should Contractor be unable to provide software support. *FD/MK* shall not sell or otherwise distribute software developed for, or used as part of the delivered toll collection system.

Software Specification

After thoroughly reviewing the functional requirements of the Toll Collection Equipment System as defined in this document, the Contractor shall prepare a detailed Software Specification. This Software Specification shall include a description of all programs required to satisfy all functional requirements, as set forth in this document. Flow diagrams shall be included in the Software Specification for programs used in all subsystems to clearly identify data flow through the system and to illustrate the relationship between individual programs and/or subroutines. If separate sheets are used in delineating each function, an overall flow diagram shall be provided indicating how each subroutine fits into the overall software program.

A preliminary data dictionary and file/record document shall also be included in the Software Specification. This document shall define all data messages, records and files accessed by more than one program in the toll collection system. This shall include a plain language description of each data element, its format, the programs or modules in which it is used and the data element as it will be coded into the software programs.

The Software Specification shall be submitted to *FD/MK* for review within ninety (90) days of Notice-to-Proceed.

Software Development Plan

A detailed Software Development Plan shall be prepared and submitted to *FD/MK* for review and approval no more than sixty (60) days after Notice-to-Proceed. This plan shall indicate all elements of the software development process and shall include the following submittals:

- Software Development Schedules;
- Assignments to Subcontractors;
- Programming languages;
- Software testing plan;
- Software documentation plan; and
- Software management plan.

A complete program of software testing shall be defined as a part of the Software Development Plan. The Contractor's testing plan shall include a summary of test procedures, dates and equipment to be used for each particular test. The Software Documentation Plan shall include a description of documentation to be provided for application programs, as well as incorporating standards to be followed and sample documentation, where available.

The Contractor shall fully update software/firmware documentation throughout the Warranty Period in order to reflect changes (if any) made in the toll collection system after the commencement of revenue collection. The Contractor shall be held responsible for the cost of updating documentation, unless the change is due to "extra work" as requested by *FD/MK*.

It is not anticipated that documentation changes during the Warranty Period will require a complete documentation package resubmittal. Update sheets should be provided by the Contractor together with clear instructions as to how they are to be incorporated into the previously submitted package. The approach to be adopted for documentation updates should be included in the Software Development Plan, as described earlier, which shall be provided by the Contractor.

Manuals

A number of training and operating manuals shall be provided under this Contract. All manuals which are not standard manuals shall meet the following criteria:

- Whenever possible, all data shall be printed on 8.5 X 11 inch sheets;

- Manuals shall be bound in loose-leaf binders with the name of the manual printed on each binder;
- Tab indexes shall be provided for each major section of the documentation for which data is submitted and also for each section and/or major classification of equipment. All index tabs shall be a permanent part of a durable index sheet; and

- Maximum use of simple diagrams and other graphic aids is strongly encouraged.

Three (3) draft copies of all manuals shall be submitted to *FD/MK* for VDOT's review, possible revision and/or approval before final reproduction. Draft submissions shall be made no less than thirty (30) days prior to the deadline for final submission.

Toll Collector Manual

Thirty (30) copies of a Toll Collector Manual shall be provided. This document shall include a complete and simple description of all operational toll collection procedures and a non-technical description of manual/ETC lane functions. This manual shall not include any information that will jeopardize the security of the toll collection system. The manual shall be designed for use by minimally skilled personnel. The manual shall contain illustrations and diagrams as required to demonstrate the step-by-step operations required for processing all normal and irregular toll transactions, opening and closing the lane, and all other toll collector procedures.

Final copies of this manual shall be delivered no less than sixty (60) days prior to commencement of the toll collector training program. Draft copies shall be delivered sufficiently in advance to allow a thirty (30) day review period, including revisions and eventual approval.

Remote Toll Collection Manual

Two (2) copies of a Remote Toll Collection Manual shall be provided. This document shall include a complete and simple description of operation of additional booth equipment provided in toll booth with surveillance monitor and intercom system for ETC/ACM lane monitoring.

Final copies of this manual are to be delivered no less than sixty (60) days prior to commencement of the toll collector training program. Draft copies shall be delivered sufficiently in advance to allow a thirty (30) day review period, including revisions and eventual approval.

Toll Supervisor Manuals

Five (5) copies of a Toll Supervisor Manual shall be provided under this Contract. This document shall provide a complete description of Supervisor's Workstation functions, input menu options, and screen format descriptions. Diagrams and simplified instructions are encouraged. This manual shall include text to define the Supervisor's duties in order to efficiently monitor the following:

- Toll Collector activities;
- Real time messages to report equipment malfunctions to maintenance; and

- ETC, ETC/ACM, and ETC/manual lane activity.

Supervisor Manuals shall also include instructions for restarting System after power failure, should system not restart on its own, proper shutdown of ETC/ACM lanes in case of power failure, and proper shutdown of Host Computer in case of power failure. Supervisor manual should also include use of Surveillance System and Intercom System.

Final copies and draft copies shall be delivered according to the same schedule identified above for Toll Collector Manual.

Auditors Workstation Manual

Two (2) copies of a Auditors Workstation Manual shall be provided. This document shall provide a complete description of the auditing, management, and reporting functions of the Auditors Workstation, input menu functions, and high security password program. Functioning of interfacing with FasToll Service Center and account resolution functions should also be included in this manual.

Final copies and draft copies shall be delivered according to the same schedule identified for Toll Collection/Supervisor's Manuals.

Host Computer System User's Manual

Two (2) copies of a Host Computer System User's Manual shall be provided. This manual shall provide complete descriptions of the functions for:

- Generation of reports;
- Integration with workstations and other related peripherals;
- System Diagnostics; and
- Other related functions not covered under other manuals.

Complete diagrams, illustrations, and instructions shall be provided for ease of understanding the toll collection system operation, including normal operating and communication procedures, computer restart/recovery and diagnostic procedures and general instructions in the event of equipment malfunctions. All operator commands, error messages and responses shall be explained in detail.

For standard components not manufactured by the Contractor, the Manufacturer's standard equipment specifications and operator's manuals shall also be provided. All diagrams, illustrations, instructions and procedures shall be appropriately dated. Draft copies of this manual shall be delivered sufficiently in advance to allow a thirty (30) day prior review, revision and approval period.

Final copies of this manual shall be delivered at least sixty (60) days prior to field installation of Plaza System Components.

ETC/Violation Workstation Manual

Two (2) copies of a ETC/Violation Workstation Manual shall be provided. This manual shall provide complete descriptions of the functions for:

- Assisting operators in the daily use of the ETC/violation system, including generation of reports;
- Processing of Violations; and
- Integration with FasToll processing center.

Final copies and draft copies of this manual shall be delivered according to the same schedule identified above for Toll Collector Manuals.

Maintenance Workstation Manual

Two (2) copies of a Maintenance Workstation Manual shall be provided. This document shall be comprehensive and shall provide complete detailed technical descriptions of system maintenance workstation operations, including but not limited to the following:

- Trouble-Shooting Techniques;
- Corrective Measures, both temporary and permanent;
- System Backup Procedures; and
- System Recovery Procedures.

This manual shall be prepared for technical personnel assigned to the maintenance of the host computer system and workstations and any attached peripherals.

Final copies and draft copies of this manual shall be delivered according to the same schedule identified above for Toll Collector Manuals.

Toll Collection System Maintenance Manual

Two (2) copies of a Toll Collection System Maintenance Manual shall be provided. This document shall be comprehensive and shall provide complete detailed technical descriptions of maintenance operations, including but not limited to the following:

- Preventive Maintenance Schedule;
- Trouble-Shooting Techniques;
- Corrective Measures, both temporary and permanent;
- Maintenance Techniques (routine, preventive, and remedial);
- Location and availability of support services for all major components;
- Point-to-point component wiring schematics and logic signal flows; and
- Assembly and disassembly drawings, including exploded view drawings.

This manual shall be prepared for technical personnel assigned to the maintenance of the toll collection equipment system. This manual shall include a general description, theory of operation, operator instructions, detailed electrical-electronic logic circuit analysis, mechanical functions, installation, test and troubleshooting procedures, preventive and corrective maintenance procedures. The manuals shall also contain diagrams, schematics, layouts and parts lists required to service each component utilized in the toll collection equipment system.

FD/MK shall not sell or otherwise distribute Toll Collection System Maintenance Manuals to contractor competitors. The detailed Toll Collection System Maintenance Manuals and proprietary information shall strictly be used to ensure proper maintenance.

Standard Service Manuals for unmodified commercial products used in the toll collection system shall be acceptable if they contain details and accurate information in order to properly service the specific toll collection equipment supplied under this Contract. Large size diagrams and mechanical assembly diagrams do not have to be reduced or incorporated into the manuals if these drawings are provided with the manuals.

Toll Collection System Maintenance Manuals shall be delivered in preliminary form to *FD/MK* prior to the commencement of toll collection equipment installation. Draft copies of the final, refined Toll Collection System Maintenance Manuals shall be delivered sufficiently in advance to allow a thirty-day (30) prior review, revision and approval period. Final copies of the Maintenance Manuals shall be delivered no less than ninety (90) days after the system is commissioned.

Parts List and/or Catalogs

Three (3) copies of a comprehensive and detailed parts list for each and every component included in the toll collection equipment system shall be supplied. Parts shall be numerically encoded, with all spare parts permanently encoded with the parts lists number for inventory purposes. Parts lists shall be categorized and related to particular system components (major subassemblies) and toll equipment. The Contractor shall maintain a current inventory file of the location of all components in the system by type of part and component and serial number.

Parts lists with component part numbers without descriptive information shall not be accepted. The parts lists shall contain the source vendor's name, identification numbers and codes or other means to identify the manufacturer of each component. Second sources shall be stated for all standard commercial components.

All parts lists and catalogues shall be provided prior to Final System Acceptance.

As-Built Drawings

The Contractor shall provide two (2) complete sets of reproducible transparencies and two (2) complete sets of blue line prints of As-Built drawings for the toll collection equipment system. The set shall include, but not be limited to, all schematics, logic diagrams, layouts, Wiring Diagrams, assembly drawings, parts detail drawings for mechanical parts design or modified under this Contract, including installation details so as to provide a complete record of the as-built status of the toll collection equipment system.

The Contractor shall incorporate into the As-Built drawings all design modifications, change orders and field installation changes. At the time of submittal, the Contractor shall certify in writing that the above has been accomplished.

Drawings contained in standard catalogues and manuals for unmodified commercial products do not have to be reproduced as part of the As-Built drawing set. All revisions to standard commercial assemblies or components of the toll system shall be included in the As-Built drawings.

The set of As-Built drawings shall consist of a title sheet, an index sheet and the various As-Built drawings. The index sheets shall include a listing of all drawings with headings for Drawing Number, Drawing Title, and the type of drawing, such as assembly, schematic, material list, wiring diagram, wire list, or similar categories.

FD/MK will review the As-Built drawings for content and will accept the drawings only when the Contractor has complied with the requirements set forth herein.

The Contractor shall deliver all required As-Built drawings prior to Final System Acceptance.

Training

The Contractor shall provide formalized training at a location in the Richmond, VA area designated by *FD/MK* for each of the following categories of personnel:

- Toll Collectors;
- Toll Supervisors;
- Auditors;
- Management Personnel;
- ETC enforcement systems processors; and
- Maintenance Personnel.

Training of the above categories of personnel shall take place within the month prior to opening of the project, with the exception of Maintenance Personnel. Maintenance Personnel shall be trained for simple repairs, such as bulb replacements, system resets, etc. prior to opening for work during Warranty Period and any executed Options. Most likely only one person will be trained during this period. Additional Maintenance Personnel will be trained in the month prior to the end of the Warranty Period such that regular maintenance can be

accomplished after Contractor maintenance. This training shall cover all areas in which Contractor maintenance personnel have been trained and have been performing maintenance.

Video enforcement subsystem

The Contractor shall provide a video enforcement subsystem in each of the ETC-only express lanes at the mainline plaza and each of the lanes at the ramp plazas (total 6 lanes). This work item shall include the provision of the video cameras, camera housing, supplemental lighting, and vehicle separation detectors for use in the enforcement process. It further includes all labor material and services necessary to accomplish the design, development, fabrication, integration, testing, installation, and acceptance of the video enforcement subsystem in accordance with these specifications.

The cameras, supplemental lighting and vehicle separation detector shall be mounted on overhead gantries. Two overhead gantries shall be supplied and installed in the toll plaza and ramp plazas by others. Proposals shall specify the distance between the two gantries that the system design proposed requires. The first gantry supports the violation camera housing, the camera and supplemental lighting and the signing required for traffic management. The signs will also be supplied and installed by others. The second gantry supports the ETC antenna and the vehicle separator.

Design Requirements

The video enforcement subsystem (VES) shall comprise a shuttered video camera which shall send non-interlaced images at 30 frames per second to an image recorder. Using a vehicle separation device, the lane controller shall automatically trigger the image recorder to retain the current image of the passing vehicle in memory. If the lane controller sends a violation message to the image recorder, the image shall be transmitted to the Host computer. If no violation message is received from the lane controller by the image recorder, the image shall be discarded or overwritten when the next vehicle activates the vehicle presence detection device.

The lane controller shall also communicate to the image recorder all violation information including the time, date, lane number, plaza location, type of violation and amount of insufficient funds for inclusion into the violation image. The stored violation image shall be sent to the image processing computer in uncompressed format.

The enforcement subsystem shall include, but not be limited to, the following:

- Shuttered camera unit
- Near-infrared strobe lamp
- Anti-glare filter and glare shield
- Image recording computers
- Camera mounting, lens, filter and accessories

- Video cable harness and data line connectors
- Power supply

The enforcement subsystem lane equipment together with the lane controller and the facilities communications network shall form a complete violation monitoring and control system. The enforcement subsystem shall be triggered such that only violating vehicles are identified and sent to the Host computer. The vehicle separation detector and lane controller shall maintain processing speeds allowing enforcement at speeds to 90 MPH.

The camera equipment shall be a high resolution CCD camera. The system shall be capable of providing clear, freeze frame video pictures of license plates under all light and weather conditions. The rate of image capture per camera shall be a minimum of four (4) images per second.

The Contractor shall furnish image recorder units to be incorporated into the plaza subsystems. The recorder shall continuously record images to memory when triggered by a vehicle passing over the vehicle detection device.

The Contractor's image capture system design shall insure that images are captured of vehicles in violation that drive between the ETC only lane (straddle the lanes).

Images recorded with these units shall be transmitted to the Host computer. In the event communication to the Host computer is not available, the Image Recorder must store the images uncompressed until communication is restored. When communication is restored, the Image Recorder shall automatically forward stored images to the Host computer.

Vehicle Separators

Vehicle separators shall be used in each lanes utilizing the VES. In the video enforcement subsystem the primary function of the vehicle separator is to locate accurately the rear of each vehicle in order to synchronize the license image capture camera. Note that the video separator may also be used in the automatic vehicle classification (AVC) subsystem. The vehicle separators shall be capable of detecting the passage of a vehicle under the equipment gantries. The configuration requires one vehicle separator per lane. An additional function of the vehicle separators will be to provide traffic count data. Traffic count data shall be stored in six (6)-minute increments.

The vehicle separators shall be mounted on the gantries and are specified as any vehicle sensor or vehicle classification device capable of determining the longitudinal location of the vehicle as it traverses a particular plane vertical to the roadway. The vehicle separator shall have the capability to detect and locate the trailing edge of all vehicles passing through, and located anywhere on a lane in a multi-lane environment.

The vehicle separators shall provide the trigger signal to the VES image recorder capture the rear view image of the vehicle when the vehicle's rear license plate is within the depth of focus of the camera. Detection of the trailing edge of the vehicle and the subsequent trigger signal must be fast enough to yield clear images for vehicle speeds of 0 to 90 miles per hour.

Captured images and related violation data residing in the Host computer will be sent to FCSC for processing in a batched mode. The Contractor shall provide an automated transmission of this data to FCSC. The Contractor shall develop, with the operator of FCSC, the format and protocol for this transmission.

Electrical Requirements

The video enforcement subsystem shall operate on 115 VAC 60 HZ power. All electrical interconnects shall be achieved by connectors which shall be keyed to ensure correct orientation.

Reliability Requirements

The design life of the video enforcement subsystem shall be at least 15 years. The mean time between failures (MCBF) shall be 6000 hours, minimum. The mean time to repair (MTTR) shall be 2 hours maximum.

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment data sheets;
- Operations manual reflecting as built condition;
- Performance specifications;
- Complete parts list, including manufacturer and manufacturers part number;
- Maintenance manual/trouble shooting procedures including theory of operation; and
- Circuit board pictures, identifying major components.

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Vehicle Enforcement Subsystem Image Processing

The captured images and related violation information shall be sent by the lane controllers to the image processor at the mainline toll plaza administration building location and the images processed by the operator.

The image processor shall have a minimum configuration as follows:

- 200 MHZ processor based CPU
- 64 Mb of RAM
- 2 Gb hard disk drive
- SVGA 15 inch monitor
- keyboard
- mouse
- Microsoft Windows NT operating system
- JPEG compression software

If the image processor is a component of the Lane Controller, Lane Controller peripherals may be substituted for the peripherals listed above. The JPEG compression software would reside on the Host computer under these conditions.

Communication hardware and software to enable vehicle ownership research is not required.

After a violation has been resolved, the violation pictures shall be compressed using JPEG format to minimize archive storage requirements. JPEG image compression software shall provide a variable compression ration of 10:1 with no discernable loss in picture quality.

The image processor unit shall examine the violation database for repeat offenses. If the number of repeat offenses exceeds a programmable number to be determined by the operator, the image processor workstation shall be capable of automatically printing the necessary citation letter to a local or network laser printer. This letter will include a reproduction of the image recorded of the violating vehicle, information regarding the nature of the violation and the appropriate measures the violator should make to amend the violation. The format and content of this letter shall be configured by the operator.

Reports shall be generated from the database and shall include, but not be limited to, number of violations per day per lane, summary of offenders and number of violations, unpaid toll per offender and revenue recovered.

A periodic violator vehicle plaza report shall be available from the host computer. This report shall indicate all violating vehicles. In order to generate this report, the user shall indicate the starting and ending date of the period for which the user wants a violator report, and the plaza for which the report is desired.

As a minimum, the periodic violator vehicle plaza report shall include the following information:

- license plate number for each violation
- time and date of the violation
- lane of the violation
- amount of insufficient payment for the violation

Documentation Requirements

Two complete sets of documentation shall be provided. The documentation shall include at least the following:

- Equipment data sheets;
- Operations manual;
- Performance specifications;
- Complete parts list, including manufacturer and manufacturers part number;
- Maintenance manual/trouble shooting procedures including theory of operation; and

Testing

Contractor shall demonstrate proper functional operation of the integrated units at the factory test, in lane verification testing and during the operational acceptance test.

Project Management

The proposer shall present a detail description of the management technique to be used during all phases of the project. Specific areas of project control to be identified shall include, but are not limited to, the following:

- Primary Project Responsibility;
- General Contractor Coordination;
- On Site Installation;
- Procurement;
- Record Keeping;
- Testing; and
- Sub-Contractor Management (if any).

The Contractor shall identify key personnel and a summary of their duties in each of the areas. A corporate organizational chart shall be included. The project management techniques shall include a recommended schedule of meetings both internally (within the Contractor's team) and with *FD/MK* or *FD/MK*'s representative. The Contractor shall identify the primary contact person authorized to act for the Contractor in discussions with *FD/MK* or *FD/MK*'s representative.

Weekly written progress reports will be submitted to *FD/MK* or *FD/MK*'s representative by the close of business each Monday throughout the duration of the project.

Installation Coordination

The Route 895 Toll System will be installed as the highway is constructed. It is the responsibility of the Contractor to coordinate Toll System installation with either the General Contractor or the sub-contractors providing construction services. Additional costs for construction, Toll System installation, or construction delays as a result of a failure by the Contractor to obtain this cooperation shall be the responsibility of the Toll System Contractor.

Project Schedule

Route 895 is scheduled to open to the public in December 2001. The Contractor shall submit to *FD/MK* within 14 days of notice to proceed a Detailed Progress Schedule defining the order of work to be performed. The Schedule must include specific milestones and dates to be accomplished. The Schedule shall be in CPM format and will be used as a basis for progress tracking throughout the course of work. The schedule will be subject to approval by *FD/MK*.

If a shift in work completion goals occurs, the Contractor, upon request, will submit a revised schedule of work, with revised completion dates. If Contractor falls behind in work, the

Contractor will take such steps as necessary to return to overall project goals and deadlines. In the case of work continuing to fall behind schedule, *FD/MK* can require the Contractor, at no further cost, to increase personnel assigned to project and/or perform overtime work.

Milestones to be included in the schedule include, but are not limited to, the following:

SUBMITTALS	DUE DATE
System requirements review	TBD
Preliminary design review	TBD
Conduit plans	TBD
Final design review	TBD
Preliminary test plan	TBD
List of spare parts	TBD
Software development plan	TBD
Software specifications	TBD
Draft software documentation	TBD
Final software documentation	TBD
Sample of all reports	TBD
Preliminary installation plan	TBD
Final installation plan	TBD
Training plan	TBD
Maintenance plan	TBD
Preventative maintenance plan	TBD
Preliminary maintenance service manual	TBD
Parts list	TBD
System operator manual	TBD
Collector and Supervisor manuals	TBD
Final as-built drawings	TBD

The Contractor shall identify tasks to be completed by others that are relevant to meeting the proposed schedule.

System Test and Training Center

The Contractor shall design an area within the Mainline Toll Plaza administration building to serve as a test and training center. Using spare equipment (described in section 4), each of the three lane types (ETC express, manual/ETC, automatic/ETC) shall be simulated in the test and training center.

The simulated lanes shall be fully functional and able to test new hardware, software, and train new toll collection attendants and service technicians. It may be necessary, from time to time, to replace equipment that has failed in the highway lanes with equipment from the test and training center. In such cases, the equipment must be replaced within the time limits set forth in the maintenance section.

Test and training equipment exceptions will be the audio subsystem, the video surveillance subsystem, the video enforcement subsystem, and the vehicle classification subsystem.

System Testing

Three stages of testing will be required of each component of the toll System: Pre-installation, Post-Installation, and Acceptance. Each level of these tests will be broken down as follows:

- Pre-Installation
  - Factory Tests
  - Site Tests
  - Software
- Post-Installation
  - ETC lane test
  - ETC/Manual lane test
  - ETC/Automatic lane test
  - Software
- Acceptance
  - ETC lanes
  - ETC/Manual lanes
  - ETC/Automatic Lanes
  - Software

Pre-Installation

Factory Tests will be performed on samples of all equipment to be installed as part of the System by the Contractor with participation and oversight by *FD/MK*'s personnel and/or its representatives. Tests will include temperature variation, power variation, humidity variation, and operational testing of all functions as given in design and operational specifications. In addition, overall equipment materials, design, construction, markings and workmanship will be examined for compliance with requirements of this RFP. This test shall culminate in the full testing of an example ETC lane, ETC/Manual lane, and ETC/Automatic lane equipment. Video enforcement in ETC lanes shall also be tested. Additional tests of supervisor workstation, host computer system, surveillance system, intercom system, and UPS power system shall be conducted.

Software tests shall be performed at the Contractor's factory for compliance with operational and design requirements. At Factory Tests, all software options, reports, functions, and screens will be tested.

Upon completion of Factory Tests, *FD/MK* will issue an approval and such equipment which has passed Factory Testing can be shipped and installed at the proper locations.

Post-Installation

Post-Installation test will be conducted on all equipment in all lanes. Tests will be similar to Factory Tests, and will verify that the system provides the same acceptable functionality after installation as was demonstrated at the factory. If any deficiencies were identified for correction during factory test these corrections will be tested after installation. In addition, testing of all lanes interacting simultaneously with Host Computer will be conducted to ascertain performance of complete system under worst-case conditions.

Acceptance Tests

Tests of the complete system shall be conducted during regular operations after commissioning. The acceptance test shall demonstrate the complete set of functional requirements described in this document while also meeting the reliability and maintainability criteria for the operational system. The system shall operate for sixty (60) consecutive days without major functional flaws and without equipment failures that exceed the allowable failure rate and without repair times that exceed the required repair time. The Contractor shall redesign, reprogram, retrofit, or modify the equipment at no additional cost to *FD/MK* until the system meets the required performance. Additional tests will include actual account reconciliation with the FasToll office, all aspects and reporting capabilities of system and plaza supervisor workstation, and all aspects and reporting capabilities covered in this document. Final System Acceptance will be issued by *FD/MK* when all problems and defects are resolved to *FD/MK*'s satisfaction.

At any point in the testing process, if a particular component fails a test, the Contractor will take steps to remedy the problem or replace the component with a properly working one. If a particular type of component is noted as failing frequently by the Contractor, *FD/MK* reserves the

right to request a total replacement or redesign of that particular component without further additional cost to *FD/MK* or delaying the schedule of implementation. Specific documentation outlining the particular problem and the corrective action taken will be provided to *FD/MK*.

MINORITY BUSINESS ENTERPRISE SUBCONTRACTING PLAN

Minority Business Enterprise (MBE) Subcontracting Plan
I-895 Richmond Connector Project

Policy Statement

The respective corporations of the FD/MK are dedicated to the advancement of minority and women owned business enterprises. This dedication and commitment will be carried through in the development of the I-895 Richmond Connector Project, to the benefit of the state of Virginia and local communities. FD/MK's commitment is emphasized by the following policy to facilitate the advancement of minority business enterprises for this project:

"To encourage the establishment and growth of small, minority, female and disadvantaged business enterprises, we join with government agencies and others to create greater opportunities for these entrepreneurs in the attainment of mutually beneficial social and economic objectives"

This policy provides the guidance in our efforts to meet the objectives of our MBE Subcontracting Plan based on our innovative *"Mentor-Protege Program"*

Plan Objectives (*Mentor-Protege Program*)

The Mentor-Protege Program is a developmental program for Protected Class Enterprises (MBE, WBE, DBE, DB). It is established to assist in the development of such businesses and promote increased utilization. The program is a finite program designed to assist protected class enterprises in advancing their business and technical capabilities. It should enable them to expand their capacity to do business and become more viable entities. The objectives of the Mentor-Protege program are intended to provide general guidance and assistance in establishing mentor-protege agreements, and are not intended to restrict the mentor in providing other types of assistance that may be identified and agreed to by both parties.

The Mentor-Protege program is set to increase Minority/Women Business Enterprise (MBE/WBE) utilization by:

- Expanding the capacity of such businesses to do business with FD/MK
- Developing long term business relationships
- Establishing teaming and or partnering business relationships
- Developing MBE/WBE capacity that would benefit FD/MK and our clients
- Establishing strategic alliances benefiting both the mentor and the protege

- Providing management and technical assistance to protege firms

These objectives are to be met through the self-directed efforts of the FD/MK team. The strategy for implementing our MBE Program which is based on meeting, at a minimum, the requirements of the state of Virginia and federal departments of transportation guidelines for minority business participation. FD/MK's MBE program ensures small, minority, female and disadvantaged businesses are given the maximum practicable opportunity to compete for and participate in subcontracts, purchase orders, and other procurement actions.

Plan Strategy

Organization

An MBE Liaison Officer (MLO) will be designated, together with adequate staff to administer the MBE program. The MLO will report directly to the Project Director. The MLO will be responsible for developing, managing and implementing the MBE program on a day-to-day basis; for carrying out technical assistance activities for MBEs; and for disseminating information on available business opportunities so that MBEs are provided an equitable opportunity to bid on contracts. The MLO will work closely with other departments to define subcontract packages, administer the solicitation and award process, and report on subcontract performance in meeting the requirements of the plan.

One of the first activities is to define and detail the subcontracting goals for the project.

Subcontracting Goals

The method used by FD/MK to develop subcontracting goals for small, minority, female and disadvantaged business enterprises consists of a detailed review and analysis of the items of work to be performed; the complexity of the item of work; an evaluation of the time frame in which the work activities are to be performed; a thorough understanding of the location of the project; and a survey of the availability of small, minority, female and disadvantaged business contractors and suppliers. This process enables FD/MK to identify the areas of work that would lend themselves to subcontracting to small, minority, female and disadvantaged business enterprises.

Once the review and analysis of the project for contracting activities for minority firms is complete, goals will be set that are practical and related to the potential availability of qualified MBEs in desired areas of expertise for each segment of work. Consideration will be given as to the projection of the number and types of contracts to be awarded and the number and types of MBEs likely to be available to compete for contracts in setting goals. Emphasis will be on utilizing MBEs in the same geographic area in which contractors or subcontractors for a given solicitation are sought. If FD/MK cannot meet the goals using MBEs from this geographic area, the search will be expanded to a reasonable wider geographic area.

Goals established by FD/MK will be passed on to prime contractors and subcontractors, as appropriate.

Prime contractors will be required to make good faith efforts to replace an MBE subcontractor

that is unable to perform successfully with another MBE.

For all contracts for which contract goals are established, the following information will be provided/required (as appropriate):

- The names and addresses of MBE firms that will participate in the contract
- A description of the work each named MBE firm will perform
- The dollar amount of participation by each named MBE firm

If the information submitted does not meet the MBE contract goals, the following information will be provided demonstrating that a good faith effort has been made:

- Whether the contractor attended any pre-solicitation or pre-bid meetings that were scheduled to inform MBEs of contracting and subcontracting opportunities
- Whether the contractor provided written notice to a reasonable number of specific MBEs that their interest in the contract was being solicited, in sufficient time to allow the MBEs to participate effectively
- Whether the contractor advertised in general circulation, trade association, and minority-focus media concerning subcontracting opportunities
- Whether the contractor followed up initial solicitations of interest by contacting MBEs to determine with certainty whether they were interested
- Whether the contractor selected portions of the work to be performed by MBEs in order to increase the likelihood of meeting the MBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate MBE participation)
- Whether the contractor provided interested MBEs with adequate information about the plans, specifications and requirements of the contract
- Whether the contractor negotiated in good faith with interested MBEs, not rejecting MBEs as unqualified without sound reasons based on a thorough investigation of their capabilities
- Whether the contractor made efforts to assist interested MBEs in obtaining bonding, lines of credit, or insurance required
- Whether the contractor effectively used the services of available minority community organizations; minority contractors' groups; local, state and Federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of MBEs.

MBE participation will be counted toward meeting MBE goals as follows:

Once a firm is determined to be an eligible MBE, the total dollar value of the contract awarded to the MBE is counted toward the applicable MBE goal.

The total dollar value of a contract to an MBE owned and controlled by both minority males and non-minority females is counted toward the goals for minorities and women respectively, in proportion to the percentage of ownership and control of each group in the business. The total dollar value of a contract with an MBE, owned and controlled by minority women, is counted toward either the minority goal or the goal for women, but not both.

A contractor may count only expenditures to MBEs that perform a commerciallyuseful function in the work of a contract. An MBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine a commercially useful function, the amount of work subcontracted, industry practices, and other relevant factors will be evaluated. If an MBE subcontracts a significantly greater portion of the work than would be normally expected, the MBE shall be presumed not to be performing a commercially useful function.

Sixty percent of expenditures for materials and supplies obtained from an MBE dealer may be counted, and 100% of such expenditures to an MBE manufacturer. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor. A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. Brokers and packagers shall not be regarded as manufacturers or regular dealers .

The following expenditures may be counted toward MBE goals:

- Fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract, provided that the fee or commission is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services

- Fees charged for delivery of materials and supplies required on a job site when the hauler, trucker or delivery service is not also the manufacturer or a regular dealer of the materials and supplies, and the fee is not excessive

- Fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract, and the fee is not excessive

Implementation

The ability to implement a successful program for the utilization of small, minority, female and disadvantaged business enterprises includes two elements. First, a list of small, minority, female and disadvantaged business enterprises is developed containing firms that operate internationally and nationally as well as locally.

Information for the MBE lists is obtained from the Procurement Automated Source System (PASS) of the U.S. Small Business Administration, the National Minority Supplier Development Council vendor information service, the and Information Division of the Minority Business Development Agency in the U.S. Department of Commerce, the National Association of Women in Construction, the U. Hispanic Chamber of Commerce, minority trade associations, and a fifty-state database maintained by the corporation of small, minority, female and disadvantaged business enterprises with whom we have done business. Procedures to ensure that MBEs have an equitable opportunity to compete for contracts and subcontracts will include:

- Arranging solicitations, time for the presentation of bids, quantities, specifications and delivery schedules so as to facilitate the participation of MBEs

- Providing assistance to MBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance

- Carrying out information and communications programs on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual if appropriate

We will thoroughly investigate the full extent of services offered by banks owned and controlled by minorities or women in the community and make the greatest feasible use of these banks. We will also encourage prime contractors to use the services of these banks.

We will obtain the Virginia DOT source list to facilitate identifying MBEs with capabilities relevant to contracting requirements and to particular solicitations. We will make the directory available to bidders and proposers in their efforts to meet the MBE requirements.

All minority and women-owned firms will be required to be certified with the Virginia DOT. FD/MK will provide to the Virginia DOT's Equal Opportunity Department such information and documentation available which may be required in order to obtain Virginia DOT certification of all firms listed in the MBE/WBE Plan.

Second, FD/MK routinely sends invitations to bid to these firms whenever price quotations and subcontracts are solicited.

Dissemination of Policy and Program

- Develop and maintain bidders lists of qualified small, minority, female and disadvantaged business enterprises from all possible sources

- Ensure to the fullest extent possible, that all procurement packages are structured to encourage small, minority, female and disadvantaged business

enterprises to participate to the maximum extent possible

- Assure inclusion of small, minority, female and disadvantaged business enterprises in all solicitations for products or services which they are capable of providing

- Review solicitations to remove statements, clauses, etc., which may tend to restrict or prohibit small, minority, female or disadvantaged business enterprise participation

- Ensure that the statement of policy and implementation of the program are communicated to and understood by employees authorized to purchase and subcontract for the corporation

- Advertising for subcontractors and suppliers includes the request for bids from small, minority, female and disadvantaged business enterprises

- Copies of the program are made available to organizations who have as an objective the advancement of small, minority, female and disadvantaged business enterprises

- To ensure understanding and implementation of this program, the subject of small, minority, female and disadvantaged business utilization is routinely discussed at appropriate management and supervisory meetings

Equal Opportunity

All final quotations received will be considered on an equal basis to ensure that small, minority, female and disadvantaged business enterprises have an equal opportunity to compete

Flow-Down

FD/MK will require all subcontractors (except small, minority, female and disadvantaged business enterprises) who receive subcontracts in excess of $100,000.00 to adopt a subcontract plan similar to the subcontracting plan agreed to by FD/MK.

Record Maintenance

FD/MK will maintain records to demonstrate procedures which have been adopted to comply with the requirements set forth herein, to include establishing source lists and a description of efforts made to locate small, minority, female and disadvantaged business enterprises and award them contracts as follows:

- Efforts used to identify and award subcontracts and purchase orders to small, minority, female and disadvantaged business enterprises

- Subcontracts let and purchase orders issued to small, minority, female and disadvantaged businesses, including dollar amounts and type of work, service and/or product provided

- Assistance and aid rendered to small, minority, female and disadvantaged businesses to qualify them for work and service subcontracts

- Records of internal guidance and encouragement to buyers to effectively implement the program and monitoring performance to evaluate compliance with the plan's requirements

Plan Performance

In order to effectively implement this plan to an extent consistent with efficient contract performance, FD/MK will perform the following functions:

- Assist small, minority, female and disadvantaged business enterprises by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules to facilitate participation by such enterprises. Where lists of potential small, minority, female and disadvantaged business enterprises are excessively long, reasonable effort shall be made to give all such small, minority, female and disadvantaged business enterprises an equal opportunity to compete over a period of time

- Provide adequate and timely consideration of the potentialities of small, minority, female and disadvantaged business enterprises in all "make or buy" decisions

- Counsel and discuss subcontracting and supply opportunities with representatives of small, minority, female and disadvantaged business enterprises

A recordkeeping system will be developed to identify and assess MBE contract awards, prime contractors' progress in achieving MBE subcontracting goals, and other MBE affirmative action efforts. The records and reports will provide information relating to firms owned and controlled by minorities separately from information relating to firms owned and controlled by women.

Specifically, the following records will be maintained:

- Procedures which have been adopted to comply with the requirements of this plan

- Awards to MBEs, measured against projected MBE goals
- Specific efforts to identify and award contracts to MBEs

The following reports will be submitted quarterly:

- The number of contracts awarded to MBEs
- A description of the general categories of contracts awarded to MBEs
- The dollar value of contracts awarded to MBEs
- The percentage of the dollar value of all contracts awarded during the period which were awarded to MBEs

DESIGNATION OF INITIAL REPRESENTATIVES

Department Representatives:

- Chief Engineer (currently James G. Browder, Jr.)

Contractor Representatives:

- Herbert W. Morgan

DIVISION 1,
STANDARD SPECIFICATIONS
ROUTE 895 CONNECTOR

TABLE OF CONTENTS

Page

SECTION 101--DEFINITIONS OF ABBREVIATIONS, ACRONYMS, AND TERMS 1
101.01--Abbreviations and Acronyms 1

SECTION 102--NOT USED 9

SECTION 103--CONTRACT BOND 9
103.01--Not Used 9
103.02--Not Used 9
103.03--Not Used 9
103.04--Not Used 9
103.05--Requirements of Contract Bond 9
103.06--Not Used 9

SECTION 104--SCOPE OF WORK 9
104.01--Intent of Contract 9
104.02--Not Used 9
104.03--Not Used 9
104.04--Maintenance During Construction 9
104.05--Removing and Disposing of Structures and Obstructions 12
104.06--Cleanup 13

SECTION 105--CONTROL OF WORK 13
105.01--Authority of Engineer 13
105.02—Plans and Working Drawings 13
105.03--Conformity With Plans and Specifications 15
105.04--Furnishing and Erecting Precast Structures 15
105.05--Coordination of Plans, Standard Drawings, Specifications, and Special Provisions 15
105.06--Cooperation of Contractor 16
105.07--Cooperation With Regard to Utilities 16
105.08--Cooperation Among Contractors 17
105.09--Holidays 17
105.10--Construction Stakes, Lines, and Grades 18
105.11--Not Used 18
105.12--Not Used 18
105.13--Removal of Unacceptable and Unauthorized Work 18
105.14--Size and Weight Limitations 18
105.15--Not Used 19
105.16—Submission and Disposition of Claims 19

SECTION 106--CONTROL OF MATERIAL 20
106.01--Source of Supply and Quality Requirements. 20
106.02--Not Used 21
106.03--Local Material Sources (Pits and Quarries) 21
106.04--Disposal Areas. 22
106.05--Rights for and Use of Materials Found on Project. 23
106.06--Not Used 23
106.07--Not Used 23
106.08--Not Used 23
106.09--Not Used 23
106.10--Not Used 23
106.11--Material Furnished by the Department. 23
106.12--Metric Substitutions 24

SECTION 107--LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC 25
107.01--Not Used 25
107.02--Not Used 25
107.03--Not Used 25
107.04--Restoration of Work Performed by Others. 25
107.05--Federal-Aid Provisions. 25
107.06--Sanitary Provisions. 25
107.07--Public Convenience and Safety. 25
107.08--Railway-Highway Provisions 25
107.09--Construction Over or Adjacent to Navigable Waters. 37
107.10--Barricades and Warning Signs 37
107.11--Use of Explosives 37
107.12--Protecting and Restoring Property and Landscape. 37
107.13--Responsibility for Damage Claims. 38
107.14--Environmental Stipulations. 38
107.15--Opening Sections of Projects to Traffic 41
107.16--Contractor's Responsibility for Work. 42
107.17--Contractor's Responsibility for Utility Property and Services 42
107.18--Not Used 43
107.19--Personal Liability of Public Officials. 43
107.20--No Waiver of Legal Rights. 43

SECTION 108--PROSECUTION AND PROGRESS OF WORK 43
108.01--Not Used 43
108.02--Not Used 43
108.03--Prosecution of Work 43
108.04--Not Used 43
108.05--Limitation of Operations 43
108.06--Gratuities. 44
108.07--Character of Workers, Work Methods, and Equipment 44
108.08--Not Used 45
108.09--Not Used 45
108.10--Not Used 45
108.11--Not Used 45
108.12--Not Used 45

108.13--Not Used 45
108.14--Not Used 45
108.15--Not Used 45

SECTION 109--MEASUREMENT AND PAYMENT 45
109.01--Measurement of Quantities. 45
109.02--Not Used 49
109.03--Scope of Payment 49
109.04--Not Used 49
109.05--Not Used 49
109.06--Eliminated Items. 49
109.07--Not Used 49
109.08--Not Used 49
109.09--Not Used 49

SECTION 110--MISCELLANEOUS PROVISIONS 49
110.01--Not Used 49
110.02--Labor and Wages. 49
110.03--Equal Employment Opportunity 50
110.04--Use of Minority Business Enterprises. 50
110.05--Construction Safety and Health Standards. 50
110.06--Bulletin Boards and Posting Official Notices 50
110.07--Certification of Nonsegregated Facilities. 50

SECTION 101–DEFINITIONS OF ABBREVIATIONS, ACRONYMS, AND TERMS

101.01–Abbreviations and Acronyms.

In these specifications and in other Contract Documents, the following abbreviations and acronyms shall be interpreted as follows:

AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
ABS	Acrylonitrilebutadienestyrene (an elastomer)
AC	Alternating current
ACI	American Concrete Institute
ADT	Annual average daily traffic
AED	Associated Equipment Distributors
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
APA	American Plywood Association
API	American Petroleum Institute; American Pipe Institute
AREA	American Railway Engineering Association
ASCE	American Society of Civil Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWG	American wire gage
AWPA	American Wood Preservers Association
AWS	American Welding Society
AWWA	American Water Works Association
BOCA	Building Officials and Code Administrators
CBR	California bearing ratio
CRSI	Concrete Reinforcing Steel Institute
DBE	Disadvantaged Business Enterprise
DC	Direct current
DHV	Design hourly volume
EEI	Edison Electric Institute
EEO	Equal employment opportunity
EIA	Electronic Industries Association
EPA	Environmental Protection Agency
EPDM	Ethylenepropylenedienemonomer (an elastomer)
F/A	Filler/asphalt ratio
FHWA	Federal Highway Administration
FS	Federal Specifications, General Services Administration

ICEA	Insulated Cable Engineers Association
IMSA	International Municipal Signal Association
ITE	Institute of Transportation Engineers
LCD	Liquid crystal display
LPG	Liquid petroleum gas
MBE	Minority Business Enterprise
MEKP	Methyl ethyl ketone peroxide
MIL	Military specifications
MSDS	Materials Safety Data Sheet
MUTCD	*Manual on Uniform Traffic Control Devices for Streets and Highways* and the Virginia supplement to same
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
NIST	National Institute of Standards and Technology
NRC	Nuclear Regulatory Commission
PCI	Prestressed Concrete Institute
PE	Polyethylene
PTL	Plywood Testing Laboratory
PVC	Polyvinylchloride
PVF	Polyvinylfluoride
REA	Rural Electrification Administration
SAE	Society of Automotive Engineers
SI	The International System of Units
SPIB	Southern Pine Inspection Bureau
SSPC	Steel Structures Painting Council
TAPPI	Technical Association of Pulp and Paper Industry
TFE	Polytetrafluoroethylene
UL	Underwriters' Laboratories, Inc.
VAC	Volts alternating current
VDC	Volts direct current
VDOT	Virginia Department of Transportation
VFA	Voids filled with asphalt
VMA	Voids in mineral aggregate
VOSH	Virginia Occupational and Health Administration
VTM	Virginia test methods; voids in total mix
WBE	Women Business Enterprise

101.02--Terms.

In these specifications and in other Contract Documents, the following terms and pronouns used in place of them shall be interpreted as follows:

- A -

Alkali soil. Soil in which total alkali chlorides calculated as sodium chloride are more than 0.10 percent based on total solids.

- B -

Backfill. Material used to replace or the act of replacing material removed during construction; may also denote material placed or the act of placing material adjacent to structures.

Balance point. The approximate point, based on estimated shrinkage or swell, where the quantity of earthwork excavation and borrow, if required, is equal to the quantity of embankment material plus any surplus excavation material.

Base course. A layer of material of specified thickness on which the intermediate or surface course is placed.

Base flood. The flood or tide having a one percent chance of being exceeded in any given year.

Board. Commonwealth Transportation Board of Virginia.

Borrow. Suitable material from sources outside the roadway that is used primarily for embankments.

Brackish water. Water in which total alkali chlorides calculated as sodium chloride are more than 0.10 percent based on total solids.

Bridge. A structure, including supports, that is erected over a depression or an obstruction, such as water, a highway, or a railway, that has a track or passageway for carrying traffic.

- C -

Calendar day. Any day shown on the calendar.

Camber. A vertical curvature induced or fabricated into beams or girders and a deck slab or slab span formwork; a vertical curvature set in the grade line of a pipe culvert to accommodate differential settlement.

Channel. A water course or drainage way.

Commissioner. Commonwealth Transportation Commissioner.

Composite hydrograph. A graph showing the mean daily discharge versus the calendar day, indicating trends in high and low flow for a one year period.

Construction area. The area where authorized construction occurs.

Construction limits. The intersection of side slopes, including slope rounding, with the original ground, plus slopes for drainage ditches or incidental construction.

Contract time limit. The number of calendar days or calendar date that specifies the time allowed for completion of the work described in the Contract, including authorized extensions.

Contractor. FD/MK Limited Liability Company, a Delaware limited liability company, and its permitted successors and assigns.

Cul-de-sac. An area at the terminus of a dead-end street or road that is constructed for the purpose of allowing vehicles to turn around.

Culvert. A structure that is not classified as a bridge which provides an opening under any roadway.

Cut. The portion of a roadway formed by excavating below the surface of the earth.

- D -

Day. Unless otherwise stated, a calendar day.

Deflection. The vertical movement occurring between the supports of a bridge superstructure or its components (beams, girders, and slabs) that results from their own weight and from dead and live loads. Although all parts of a structure are subject to deflections, usually only those deflections that occur in the superstructure are of significance during construction.

Department. Virginia Department of Transportation.

Deputy Commissioner. The assistant to the Commissioner who performs such of the Commissioner's duties as have been delegated to him by the Commissioner.

Design flood. The magnitude of flood that a given structure can convey without exceeding a designated flood level.

Disposable material. Material generally found to be unsuitable for roadway construction or material that is surplus.

Disposal areas. Areas generally located off the project right of way where unsuitable or surplus material is deposited.

Drainage ditch. An artificial depression constructed to carry off surface water.

- E -

Earthwork. The work consisting of grubbing, drainage, roadway excavation, embankment excavation, borrowing, grading, placing rock, and preparing subgrades.

Easement (Right of way). A grant of the right to use property for a specific use.

Embankment. A structure of soil, soil aggregate, or broken rock between the existing ground and subgrade.

Employee. Any person working on the project specified in the Contract who is under the direction or control of or receives compensation from the Contractor or subcontractor.

Engineer. The Chief Engineer, who acts directly or through his duly authorized representative. The representative acts within the scope of the particular duties assigned to him or the authority given to him.

Equipment. Machinery, tools, and other apparatus, together with the necessary supplies for upkeep and maintenance, that are necessary for acceptable completion of the work.

- F -

Falsework. A framework of wood or steel used to support forms for the construction of concrete slab spans or t-beams, or provide temporary support for structural units during the construction or reconstruction of permanent supports.

Federal agencies or officers. An agency or officer of the federal government and any agency or officer succeeding in accordance with the law to the powers, duties, jurisdictions, and authority of the agency or officer mentioned.

Flood frequency. A statistical average recurrence interval of floods of a given magnitude.

Formwork. A temporary structure or mold used to retain the plastic or fluid concrete in its designated shape until it hardens. Formwork shall be designed to resist the fluid pressure exerted by plastic concrete and additional fluid pressure generated by vibration and temporary construction loads.

Frontage street or road. A local street or road auxiliary to and located on the side of a highway for service to abutting property and adjacent areas and control of access.

- G -

Gage. U.S. Standard Gage.

Grade separation. Any structure that provides a traveled way over or under another traveled way or stream.

- H -

Highway. The entire right of way reserved for use in constructing or maintaining the roadway and its appurtenances.

Historical flood level. The highest flood level that is known to have occurred at a given location.

Hydrologic data sheet. A tabulation of hydrologic data for facilities conveying a 100 year discharge equal to or greater than 14.15 cubic meters per second.

- I -

Invert. The lowest point in the internal cross section of a pipe or other drainage structure.

- M -

Material. Any substance that is used in the work specified in the Contract.

Median. The portion of a divided highway that separates the traveled ways.

- O -

Ordinary high water. A water elevation based on analysis of all daily high waters that will be exceeded approximately 25 percent of the time during any 12 month period.

Overtopping flood. The magnitude of flood that just overflows the traveled way at a given structure and/or on the approach traveled way of such structure.

- P -

Pavement structure. The combination of subbase, base, and surface courses that is placed on a subgrade to support the traffic load and distribute it to the roadbed.

Plans. The "Plans and Specifications" as defined in the Contract.

Profile grade. The line of a vertical plane intersecting the top surface of the proposed wearing surface, usually along the longitudinal center line of the roadbed.

- Q -

QA Manager. The independent consultant responsible for inspecting and testing in accordance with the Quality Assurance and Control Inspection Program as described in Appendix C attached to the Scope of Work attached to the Contract.

- R -

Ramp. A connecting roadway between two highways or traveled ways or between two intersecting highways at a grade separation.

Road. A general term denoting a public way for purposes of vehicular travel including the entire area within the right of way; the entire area reserved for use in constructing or maintaining the roadway and its appurtenances.

Roadbed. The graded portion of a highway within the top and side slopes that is prepared as a foundation for the pavement structure and shoulders.

Roadbed material. The material below the subgrade in cuts, embankments, and embankment foundations that extends to a depth which affects the support of the pavement structure.

Roadside. A general term that denotes the area within the right of way that adjoins the outer edges of the roadway; extensive areas between the roadways of a divided highway.

Roadside development. Items that are necessary to complete a highway that provide for the preservation of landscape materials and features; rehabilitation and protection against erosion of areas disturbed by construction through placing seed, sod, mulch, and other ground covers; and such suitable plantings and other improvements as may increase the effectiveness and enhance the appearance of the highway.

Roadway. The portion of a highway within the limits of construction and all structures, ditches, channels, and waterways that are necessary for the correct drainage thereof.

- S -

Sea water. Water in which total alkali chlorides calculated as sodium chloride are more than 0.10 percent of total solids.

Select borrow. Borrow material that has specified physical characteristics.

Select material. Material obtained from roadway cuts, borrow areas, or commercial sources that is designated or reserved for use as a foundation for the subbase, subbase material, shoulder surfacing, or other specified purposes.

Shoulder. The portion of the roadway contiguous with the traveled way that is for the accommodation of stopped vehicles, emergency use, and lateral support of the base and surface courses.

Sidewalk. The portion of the roadway constructed primarily for the use of pedestrians.

Skew. The acute angle formed by the intersection of a line normal to the center line of the roadway with a line parallel to the face of the abutments or, in the case of culverts, with the center line of the culverts.

Special provision. A document that sets forth specifications or requirements for a particular project.

Specifications. A general term that includes all directions, provisions, and requirements contained herein and those that may be added or adopted as special provisions. All are necessary for the proper fulfillment of the Contract.

Standard drawings. Unless otherwise specified, applicable drawings in VDOT's *Road and Bridge Standards* and such other standard drawings as are referred to on the plans.

State. Commonwealth of Virginia.

Station. When used as a definition or term of measurement, 100 meters.

Street. A general term denoting a public way for purposes of vehicular travel including the entire area within the right of way; the entire right of way reserved for use in constructing or maintaining the roadway and its appurtenances.

Structures. Bridges, culverts, catch basins, inlets, retaining walls, cribs, manholes, end walls, buildings, steps, fences, sewers, service pipes, underdrains, foundation drains, and other features that may be encountered in the work and are not otherwise classed herein.

Subbase. A layer(s) of specified or selected material of designed thickness that is placed on a subgrade to support a base course.

Subgrade. The top surface of a roadbed shaped to conform to the typical section on which the pavement structure and shoulders are constructed.

Subgrade stabilization. The modification of roadbed soils by admixing with stabilizing or chemical agents that will increase the load bearing capacity, firmness, and resistance to weathering or displacement.

Substructure. The part of a structure that is below the bearings of simple and continuous spans, skewbacks of arches, and tops of footings of rigid frames, together with the back walls, wingwalls, and wing protection railings.

Superstructure. The portion of a structure that is not defined as substructure.

Surface course. One or more layers of a pavement structure designed to accommodate the traffic load, the top layer of which resists skidding, traffic abrasion, and disintegrating effects of weather. The top layer is sometimes called the wearing course.

Surplus material. Material that is present on a project as a result of unbalanced earthwork quantities, excessive swell, slides, undercutting, or other conditions beyond the control of the Contractor.

- T -

Temporary structure. Any structure that is required to maintain traffic while permanent structures or parts of structures specified in the Contract are constructed or reconstructed. The temporary structure shall include earth approaches.

Ton. A metric ton; 1,000 kilograms.

Top of earthwork. The uppermost surface of the embankment excavation, exclusive of select material, that is shaped to conform with the typical section.

Traveled way. The portion of the roadway for the movement of vehicles, exclusive of shoulders.

- W -

Wearing course. See **Surface course.**

Work. The furnishing of all materials, labor, tools, equipment, and incidentals necessary or convenient for the successful completion of the project and the carrying out of the duties and obligations specified in the Contract.

Working Drawings. Drawings needed to show things associated with the construction of something to be constructed, but which will not be part of the permanent construction, e.g. formwork.

SECTION 102--NOT USED

SECTION 103--CONTRACT BOND

103.01--Not Used

103.02--Not Used

103.03--Not Used

103.04--Not Used

103.05--Requirements of Contract Bond.

In lieu of payment or performance bonds, the Contractor may furnish a certified check or cash escrow in the face amount required for each of the bonds, which will be held for the full statutory period as applicable for each bond.

103.06--Not Used

103.07--Not Used

103.08--Not Used

SECTION 104--SCOPE OF WORK

104.01--Intent of Contract.

The intent of the Contract is to provide for completion of the work specified therein.

104.02--Not Used

104.03--Not Used

104.04--Maintenance During Construction.

This Section 104.04 applies to the extent it does not conflict with the Construction Traffic Management Plan.

The Contractor shall maintain the work from the beginning of construction operations until final acceptance. Maintenance shall constitute continuous and effective work prosecuted day by day with adequate equipment and forces to such end that the roadway and structures, including barricades and warning signs as provided for in accordance with the requirements of Section 107.10, are maintained in a satisfactory condition at all times.

When a Contract specifies placing the course on another course or subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations.

The road shall be kept open to all traffic while undergoing improvements. The Contractor shall keep the portion of the project being used by public, pedestrian, and vehicular traffic in such condition that traffic will be adequately accommodated. However, removal of snow and control of ice on roads open to public travel will be performed by the Department.

The Contractor shall bear all costs of performing maintenance work before final acceptance and of constructing and maintaining necessary approaches, crossings, intersections, and other features without direct compensation except as provided for herein. However, when the Contractor confines his operation to the surface of the roadway and reasonable width of the shoulder and the surface is not disturbed or damaged by his operations or equipment, he shall not be responsible for the maintenance of the surface that remains undisturbed or undamaged.

The Contractor shall keep the portions of the road being used by the public free from irregularities and obstructions that could present a hazard or annoyance to traffic. When directed by the QA Manager, allaying of dust shall be performed and paid for in accordance with the requirements of Section 511. Holes in hard surface pavements shall be filled with approved asphalt patching material.

(a) **Detours:** Detours may be indicated on the plans or in the special provisions or used with the approval of the QA Manager. Detours over existing off-project roadways will be designated and the roadways maintained by the Department except municipalities shall be responsible for roadway maintenance within their own corporate limits. Responsibility for installation and maintenance of the temporary directional sign panels shall be in accordance with Section 512.03(a).

If any project is located wholly or in part within the corporate limits of a municipality and through traffic is to be detoured at the request of the municipality, the municipality will:

1. Provide and maintain the detours within the corporate limits

2. Furnish, install and maintain the temporary directional sign panels

The provision of detours and signing of alternate routes will not relieve the Contractor of the responsibility for ensuring the safety of the public or from complying with any requirements of these specifications affecting the rights of the public, including those concerning lights and barricades. Maintenance of all other detours shall be the responsibility of the Contractor.

(b) **Maintenance of Traffic During Suspension of Work:** During any suspension of work, the Contractor shall temporarily open to traffic such portions of the project and temporary roadways as may be agreed on by the QA Manager.

(c) **Flagging Traffic:** Certified flaggers shall be provided in sufficient number and locations as necessary for control and protection of vehicular and pedestrian traffic in accordance with the *MUTCD*. Flaggers shall use sign paddles to regulate traffic in accordance with the *MUTCD*.

Certification for flaggers will be awarded upon a candidate's satisfactory completion of an examination. Certification cards shall be carried by flaggers while performing flagging duties. Flaggers found not in possession of their certification card shall be removed from the flagging site

and operations requiring flagging will be suspended by the QA Manager. Further, flaggers performing duties improperly will have their certifications revoked.

(d) **Delays:** Unless otherwise approved, two-way traffic shall be maintained at all times. The Contractor shall not stop traffic without permission.

If one-way traffic is approved, the Contractor shall provide flaggers to direct the traffic. When specified in the Construction Traffic Management Plan, pilot vehicles shall be furnished in accordance with the requirements of Section 512.

(e) **Connections and Entrances:** Connections with other roads and public and private entrances shall be kept in a reasonably smooth condition at all times. Connections or entrances shall not be disturbed by the Contractor until necessary. Once connections or entrances have been disturbed, they shall be maintained and completed as follows:

1. **Connections:** Connections that had an original paved surface shall be brought to final grade through the intersection. At least two lanes shall be paved as soon as possible after connections are disturbed. Other connections shall be brought to final grade through the intersection, and the required material or a temporary aggregate stabilization course shall be placed as soon as possible after connections are disturbed.

   If there are delays in prosecution of work for connections, connections that were originally paved shall have at least two lanes maintained with a temporary paved surface. Those that were not originally paved shall be maintained with a temporary aggregate stabilization course.

2. **Entrances:** Entrances shall be graded concurrently with the roadway with which they intersect. Once an entrance has been disturbed, it shall be completed as soon as is practicable, including placing the required base and surface course or stabilization. If the entrance must be constructed in stages, such as when there is a substantial change in the elevation of the roadway with which it intersects, the surface shall be covered with a temporary aggregate stabilization course or other salvaged material until the entrance can be completed and the required base and surface or stabilization course can be placed.

When directed by the QA Manager, stabilization or surfacing material shall be applied to connections and entrances. When specified in the Contract, such material will be paid for at the contract unit price. Otherwise, the cost shall be included in the Contract Price.

The Contractor shall schedule construction operations so that approved continuous access is provided for all property adjacent to the construction when the property is shown on the plans to require access. When frontage roads are shown on the plans, they shall be constructed prior to the closing of any access routes unless other approved access is provided and is acceptable to the property owner.

(f) **Grading Operations:** When the Contractor elects to complete the rough grading operations for the entire project or exceed the length of one full day's surfacing operations, the rough grade shall be machined to a uniform slope from the top edge of the existing pavement to the ditch line.

When the surface is to be widened on both sides of the existing pavement, construction operations involving grading or paving shall not be conducted simultaneously on sections directly opposite each other.

The surface of pavement shall be kept free from soil and other materials that might be hazardous to traffic. Prior to opening of new pavement to traffic, shoulders shall be roughly dressed for a distance of 1 meter from the edge of the paved surface.

(g) **Hydraulic Embankment:** Where the Contractor's suction or discharge pipes cross the surface of an existing traveled highway, they shall be bridged as directed by the QA Manager. Traffic shall be protected by the display of warning signals both day and night. If dredging operations damage an existing traveled highway, the Contractor shall cease operations and repair damages to the highway.

(h) **Patching Operations:** Where existing hydraulic cement concrete pavement is to be patched, the operation of breaking and excavating old pavement shall extend for a distance of not more than 3 kilometers. Patching shall be coordinated with excavating so that an area of not more than 1 kilometer in which excavated patches are located shall be left at the end of any day's work. Necessary precautions shall be taken to protect traffic during patching operations.

(i) **Temporary Structures:** The Contractor shall construct, maintain, and remove temporary structures and approaches necessary for use by traffic. Unless otherwise specified in the Contract, the cost of these operations shall be included in the Contract Price. After new structures have been opened to traffic, temporary structures and approaches shall be removed. The materials contained therein shall remain the property of the Contractor.

The proposed design of temporary structures shall be submitted to the Engineer prior to the beginning of construction in accordance with the requirements of the Contract Documents.

(j) **Failure To Maintain Roadway or Structures:** If the Contractor fails to remedy unsatisfactory maintenance immediately after receipt of a notice by the QA Manager, the Engineer may proceed with adequate forces, equipment, and material to maintain the project. The cost of the maintenance, plus 25 percent for supervisory and administrative personnel, will be deducted from moneys due the Contractor for the project.

(k) **Haul Route:** The Contractor shall select haul routes between the project and material source(s) that will minimize disturbance to the community. The QA Manager may select alternate haul routes, divide the hauling traffic over several routes, and impose other restrictions deemed necessary to minimize the impact of the hauling operation on local residents.

104.05--Removing and Disposing of Structures and Obstructions.

The Contractor shall remove and dispose of or store, fences, buildings, structures, or encumbrances within the construction limits. Materials so removed, including existing drains or pipe culverts, shall become the property of the Contractor.

(a) **Signs:** The Contractor shall relocate street name signs, no parking signs, and other traffic signs within the construction limits that conflict with construction work as approved by the QA Manager. Signs that are not needed for the safe and orderly control of traffic during construction as determined

by the QA Manager shall be removed and stored at a designated location within the project limits. The removed signs shall be stored above ground in a manner that will preclude damage and shall be reinstalled in their permanent locations prior to final acceptance. If any of the removed signs are not to be reinstalled, the Contractor shall notify the QA Manager at the time the signs have been properly stored. Such signs will be removed from the storage area by the Contractor. Any sign that is damaged or lost because of the fault of the Contractor shall be repaired or replaced at his expense. Costs for removing, storing, protecting, and reinstalling such signs shall be included in the price for the Contract, and no additional compensation will be made.

(b) **Mailboxes and Newspaper Boxes:** When removal of mailboxes and newspaper boxes is made necessary by construction operations, the Contractor shall place them in temporary locations so that access to them will not be impaired. Prior to final acceptance, boxes shall be placed in their permanent locations as designated by the QA Manager and left in as good condition as when found. Boxes or their supports that are damaged through negligence on the part of the Contractor shall be replaced at his expense. The cost of removing and resetting boxes shall be included in the Contract Price.

104.06–Cleanup.

Removal from the project of rubbish, scrap material, and debris caused by the Contractor's personnel or construction operations shall be a continuing process throughout the course of the work. The work site shall have a neat and orderly appearance at all times.

Before final acceptance, the highway, borrow pits, quarries, disposal areas, storage areas, and all ground occupied by the Contractor in connection with the work shall be cleaned of rubbish, surplus materials, and temporary structures. All parts of the work shall be left in a neat and orderly condition.

Within 30 days after final acceptance, the Contractor shall remove his equipment from the right of way and property adjacent to the project that he does not own or control.

SECTION 105–CONTROL OF WORK

105.01–Authority of Engineer.

The Engineer has the authority to suspend the work wholly or in part if the Contractor fails to correct conditions that are unsafe for workers or the general public or carry out the provisions of the Contract. The Engineer may also suspend work for such periods as set forth in the Contract Documents.

105.02—Plans and Working Drawings.

The Contractor shall furnish working drawings as may be required. Working drawings shall not incorporate any changes from the requirements of the Contract unless the changes are specifically denoted, together with justification, and are approved in writing by the Engineer. Working drawings and submittals shall be identified by the complete project identification. Items or component materials shall be identified by the specific contract item number and specification reference in the Contract.

The Contractor may authorize its subcontractor or fabricator in writing to act for him in matters relating to working drawings. Such authorization shall have the force and effect of any other representative of the Contractor's organization.

Working drawings for steel structure, including metal handrails, shall consist of shop detail, erection, and other working drawings showing details, dimensions, sizes of units, and other information necessary for the fabrication and erection of metal work.

Working drawings for falsework supporting a bridge superstructure shall be certified by a Professional Engineer holding a valid license to practice engineering in the Commonwealth of Virginia.

Working drawings for concrete structures and prestressed concrete members shall provide such details as required for the successful prosecution of the work and which are not included in the plans. Drawings shall include plans for items such as prestressing strand details and elongation calculations, falsework, bracing, centering, form work, masonry, layout diagrams, and bending diagrams for reinforcing steel when necessary or when requested.

The Contractor shall submit to the Project Resident Engineer for review three sets of required working drawings. Working drawings shall be submitted in sufficient time to allow discussion and correction prior to the beginning of the work they reference. Work shall not be performed or materials ordered prior to review of the working drawings. One set of working drawings marked with any suggested modifications or comments will be returned to the Contractor. The other sets will be provided to the Department.

Prior to fabrication or construction, the Contractor shall submit for review one original and six copies of each working drawing and design calculation and a Professional Engineer's certification of such design for lighting, signal and pedestal poles, overhead and bridge mounted sign structures, breakaway support systems, anchor bolts, framing units, panels, and foundations. All sheets of these submittals shall include the Professional Engineer's stamp or seal. Certification for foundations will be required only when the designs are furnished by the Contractor. The design shall be in accordance with *AASHTO'S Standard Specifications for Structural Supports for Highway Signs, Luminaries, and Traffic Signals*. The certifications shall be made by a Professional Engineer holding a valid license to practice engineering in Virginia.

When specified, and prior to manufacture of reinforced concrete pipe, the Contractor shall furnish to the Department a certification of the acceptability of the design of such pipe, as determined from a review which shall be made for the Contractor by a Professional Engineer holding a valid license in the Commonwealth of Virginia. Such certification shall cover all design data, supporting calculations, and materials. Pipe designs previously certified or approved by the Department will not require recertification.

The Department's review of the Contractor's working drawings will relate to conformance to the requirements of the Contract. The review shall not be considered as authorization for any deviation from the requirements of the Contract unless the deviation, including explicit supporting justification, is specifically described. The review will not relieve the Contractor from responsibility for errors in the working drawings. If working drawings detailing a change(s) initiated by the Contractor require more than two resubmissions or revisions, the cost of additional reviews by the Department or its designated representative(s) will be assessed to the Contractor.

105.03--Conformity With Plans and Specifications.

Values for materials to be used in the work shall be in close conformity with the specified values or range of values specified in the Contract. Less than complete conformity may be tolerated if obtaining exact or complete conformity would not be feasible and if authorized by the QA Manager.

Permissible tolerances for the elevation of earthwork and thickness of the several courses of select material, subbases, and bases are specified in these specifications. If permissive tolerances are exceeded or if consistent deviations from the plans or abrupt changes in grade occur, even though within the tolerances, the affected areas shall be reconstructed to conform to the specified tolerance and provide a smooth riding surface. When it is not feasible to reconstruct the areas, payment will be made in accordance with the requirements of the applicable specification for each material placed.

When the plans require the finished surface to tie into any structural item whose elevation is fixed, the elevation of the finished surface shall coincide with the elevation of the structural item.

105.04--Furnishing and Erecting Precast Structures.

Precast units will be allowed by the QA Manager for the construction of standard drainage units and minor structures. Precast box culverts, precast arch, and special design precast structures may be used only in accordance with the plans.

The Contractor shall ensure that the precast unit, as installed at each specific location, will possess the specified structural, functional, aesthetic, and serviceability characteristics of the cast-in-place design. If field conditions make the precast unit unsuitable, the Contractor may modify the unit in a manner that will not be detrimental to the structural design, as approved by the QA Manager, or shall replace the unit with the originally designed cast-in-place unit at his own expense.

Submittal of designs for precast items included in the standard drawings will not be required provided fabrication is in accordance with the standard details. Submittal of designs for precast box culverts on the Department's approval list will not be required provided the Contractor submits a certification that it will be fabricated in accordance with the preapproved design drawings.

Requests for approval of a precast design shall include detailed plans and supporting computations that have been reviewed and approved by a registered Professional Engineer having at least 5 years experience in structural design of the type of precast structures or components proposed. Concrete shall have a design strength at 28 days of at least 30 megapascals and an air content of 6±2 percent. The design of the concrete mixture and the method of casting, curing, handling, and erecting shall be subject to review by the QA Manager. Precast units may be shipped after reaching 85 percent of the design compressive strength as determined by control cylinders tested in accordance with the requirements of Section 404. Units shall retain their structural integrity during shipment and shall be subject to inspection at the job site. Approval to use precast units shall not be construed as waiving the size and weight hauling limitations of Section 105.14.

105.05--Coordination of Plans, Standard Drawings, Specifications, and Special Provisions.

The plans, standard drawings, these specifications, special provisions, and supplementary documents are parts of the Contract. A requirement occurring in one is as binding as though occurring in all. They are intended to be

complementary and to describe and provide for a complete work. In case of a discrepancy, the following will apply:

1. Calculated dimensions, unless obviously incorrect, will govern over scaled dimensions.

2. Plans will govern over these specifications and the standard drawings.

3. Special provisions will govern over these specifications and plans.

105.06--Cooperation of Contractor.

The Contractor shall keep one complete set of plans, standard drawings, contract assemblies, and specifications available on the project at all times except for maintenance projects, certain sign projects, and other projects having no field office or on which the Contractor has no office.

The Contractor shall give the work the constant attention necessary to facilitate progress and shall cooperate with the Engineer and other contractors. If any portion of a project is located within the limits of a municipality, military installation, or other federally owned property, the Contractor shall cooperate with the appropriate officials and agents in the prosecution of the work to the same extent as with the Department.

Subcontractors shall have on the project at all times a competent superintendent capable of reading and understanding the plans and specifications and experienced in the type of work being performed who shall receive instructions from the QA Manager or his authorized representatives.

105.07--Cooperation With Regard to Utilities.

The adjustment of utilities consists of the relocation, removal, replacement, rearrangement, reconstruction, improvement, disconnection, connection, shifting, or altering of an existing utility facility in any manner.

The Contractor shall coordinate project construction with planned utility adjustments and take all necessary precautions to prevent disturbance of the utility facilities.

The Contractor shall perform contract utility work in a manner that will cause the least reasonable inconvenience to the utility owner and those being served by the utility owner.

Existing, adjusted, or new utility facilities that are to remain within the right of way shall be properly protected by the Contractor to prevent disturbance or damage resulting from construction operations. If an existing utility that requires adjustment is encountered by the Contractor, he shall not interfere with the utility but shall take the proper precautions to protect the facility and shall promptly notify the QA Manager of the need for adjustment.

If the Contractor desires the temporary or permanent adjustment of utilities for his own benefit, he shall conduct all negotiations with the utility owners and pay all costs in connection with the adjustment.

Except as otherwise specified herein, the Department will not be responsible for any claims for additional compensation from the Contractor resulting from delays, inconvenience, or damage sustained by him attributable to interference by utility appurtenances, or the operation of moving the same

105.08--Cooperation Among Contractors.

The Department may at any time contract or approve concurrent contracts for performance of other work on, near, or within the same geographical area of the work specified in an existing contract. Contractors shall not impede or limit access to such work by others.

When separate contracts are awarded within the limits of one project, contractors shall not hinder the work being performed by other contractors. Contractors working on the same project shall cooperate with each other. In case of dispute, the Engineer shall be the referee, and his decision shall be binding on all parties.

When contracts are awarded to separate contractors for concurrent construction in a common area, the contractors, in conference with the Engineer, shall establish a written joint schedule of operations based on the limitations of the individual contracts and the joining of the work of one contract with the others. The schedule shall set forth the approximate dates and sequences for the several items of work to be performed and shall ensure completion within the contract time limit. The schedule shall be submitted to the Engineer for review and approval no later than 30 days after the award date of the later contract and prior to the first monthly progress estimate. The schedule shall be agreeable to, signed by, and binding on each Contractor. The Engineer may allow modifications of the schedule when benefit to the contractors and the Department will result.

Any modification of the schedule shall be in writing, mutually agreed to and signed by the contractors, and shall be binding on the contractors in the same manner as the original agreement.

If the contractors fail to agree on a joint schedule of operations, they shall submit their individual schedules to the Engineer, who will prepare a schedule that will be binding on each Contractor.

The joint schedule and any modification thereof shall become a part of each contract involved. The failure of any Contractor to abide by the terms of the joint schedule shall be justification for declaring the Contractor in default of his Contract.

Each Contractor shall assume all liability, financial or otherwise, in connection with his Contract and shall protect and save harmless the State from any and all damages and claims that may arise because of any inconvenience, delay, or loss he experiences as a result of the presence and operations of other contractors working in or near the work covered by his Contract. He shall also assume all responsibility for any of his work not completed because of the presence or operation of other contractors.

The Department will not be responsible for any inconvenience, delay, or loss experienced by a Contractor as a result of his failure to gain access to the work at the time contemplated.

The Department will not assume any responsibility for acts, failures, or omissions of one contractor that delay the work of another except as provided herein.

105.09--Holidays.

No work that interferes with traffic shall be performed on Sundays or the following holidays without the permission of the QA Manager: January 1, Memorial Day, July 4, Labor Day, Thanksgiving Day, day after Thanksgiving and Christmas Day.

If any of these holidays occurs on a Sunday, the following Monday shall be considered the holiday.

105.10--Construction Stakes, Lines, and Grades.

The Contractor shall perform all construction and other surveying which the Contractor deems necessary to construct this project in accordance with the Contract Documents. The cost for all surveying performed by the Contractor shall be included in the Contract Price.

105.11--Not Used

105.12--Not Used

105.13--Removal of Unacceptable and Unauthorized Work.

Work that does not conform to the requirements of the Contract will be considered unacceptable work.

Unacceptable work shall be remedied or removed immediately and replaced in an acceptable manner at the Contractor's expense.

No work shall be done until the lines and grades have been established by the Contractor. Work that is done beyond the lines shown on the plans will be considered unauthorized and will not be paid for. Such work may be ordered removed or replaced at the Contractor's expense.

If the Contractor fails to comply immediately with any order of the QA Manager made under the provisions of this section, the QA Manager will have the authority to cause unacceptable work to be removed and replaced and unauthorized work to be removed and to deduct the cost from any moneys due or to become due the Contractor.

105.14--Size and Weight Limitations.

(a) **Hauling or Moving Material and Equipment on Public Roads Open to Traffic:** The Contractor shall comply with legal size and weight limitations in the hauling or moving of material and equipment on public roads open to traffic unless the hauling or moving is covered by a hauling permit.

(b) **Hauling or Moving Material and Equipment on Public Roads Not Open to Traffic:** The Contractor shall comply with legal weight limitations in the hauling or moving of material and equipment on public roads that are not open to traffic unless the hauling or moving is permitted elsewhere herein or is otherwise covered by a hauling permit. The Contractor shall be liable for damage that results from the hauling or moving of material and equipment. The hauling or moving of material and equipment on the pavement structure or across any structure during various stages of construction shall be subject to additional restrictions as specified or directed by the QA Manager.

(c) **Furnishing Items in Component Parts of Sections:** If the size or weight of fabricated or manufactured items together with that of the hauling or moving vehicle exceeds the limitations covered by hauling permit policies and other means of transportation are not available, permission will be given to furnish the items in component parts of sections with adequately designed splices or connections at appropriate points. Permission for such adjustments shall be requested in writing, and approval in writing shall be secured from the QA Manager prior to

fabrication or manufacture of the items. The request shall state the reasons for adjustment and shall be accompanied by supporting data.

105.15--Not Used

105.16—Submission and Disposition of Claims.

Early or prior knowledge by the Department of an existing or impending claim for damages could alter the plans, scheduling, or other action of the Department or result in mitigation or elimination of the effect of the act objected to by the Contractor. Therefore, a written statement describing the act of omission or commission by the Department or its agents that allegedly caused damage to the Contractor and the nature of the claimed damage shall be submitted to the Engineer in accordance with the provisions of the Contract. If such damage is deemed certain in the opinion of the Contractor to result from his acting on an order from the Engineer, he shall immediately take written exception to the order. Submission of a notice of claim as specified shall be mandatory. Failure to submit such notice shall be a conclusive waiver to such claim for damages by the Contractor in accordance with the terms of the Contract. An oral notice or statement will not be sufficient nor will a notice or statement after the event.

At the time of occurrence or prior to beginning the work, the Contractor shall furnish the Engineer an itemized list of materials, equipment, and labor for which additional compensation will be claimed. Only actual cost for materials, labor, and equipment will be considered. The Contractor shall afford the Engineer every facility for keeping an actual cost record of the work. The Contractor and the Engineer shall compare records and bring them into agreement at the end of each day. Failure on the part of the Contractor to afford the Engineer proper facilities for keeping a record of actual costs will constitute a waiver of a claim for such extra compensation except to the extent that it is substantiated by the Department's records. The filing of such notice by the Contractor and the keeping of cost records by the Engineer shall in no way establish the validity of a claim.

If the Contractor's claim contains data furnished by the Contractor that cannot be verified by the Department's records, the data shall be subject to a complete audit by the Department or its authorized representative if they are to be used as a basis for claim settlement.

Upon completion of the Contract, the Contractor may, within 60 days from the time of Final Acceptance, submit to the Department a written claim, an original and three legible copies, for the amount he deems he is entitled to under the Contract. The claim shall set forth the facts upon which the claim is based. The Contractor shall include all pertinent data and correspondence that may substantiate the claim. Only actual cost for materials, labor, and equipment will be considered. Within 90 days from the receipt of the claim, the Department will make an investigation and notify the Contractor by registered mail of its decision. However, by mutual agreement, the Department and Contractor may extend the 90-day period for another 30 days.

If the Contractor is dissatisfied with the decision, he shall notify the Commissioner in writing within 30 days from receipt of the Department's decision that he desires to appear before him, whether in person or through counsel, and present additional facts and arguments in support of his claim. The Commissioner will schedule and meet with the Contractor within 30 days after receiving the request. However, the Commissioner and Contractor, by mutual agreement, may schedule the meeting to be held after 30 days but before the 60th day from the receipt of the Contractor's written request. Within 45 days from the date of the meeting, the Commissioner will investigate the claim, including the additional facts presented, and notify the Contractor in writing of his decision. However, the Commissioner and Contractor, by mutual

agreement, may extend the 45-day period for another 30 days. If the Commissioner deems that all or any portion of a claim is valid, he shall have the authority to negotiate a settlement with the Contractor subject to the provisions of Section 2.1-127 of the Code of Virginia 1950 as amended. No suit or action shall be brought against the Department of Transportation by the Contractor or any persons claiming under him or on behalf of a subcontractor of the Contractor or a person furnishing materials for the Contract to the Contractor, arising from the performance of the Contract by the Contractor, subcontractor or person furnishing materials to the Contractor, unless such claimant shall have exhausted the review process provided above. Further, no such action shall be brought unless the same shall be brought within twelve months from receipt of the decision of the Commissioner of the Department of Transportation. In no event shall any delay therein on the part of the Contractor, subcontractor or person furnishing materials be construed as a reason for extending the time within which such suit or action must be brought. Any such case brought on behalf of a subcontractor or person furnishing materials to the Contractor shall only be brought for costs and expenses caused by the acts or omissions of the Department of Transportation and shall not be brought for costs and expenses caused by the Contractor.

Any moneys that become payable as the result of claim settlement after payment of the final estimate will not be subject to payment of interest unless such payment is specified as a condition of the claim settlement.

SECTION 106--CONTROL OF MATERIAL

106.01--Source of Supply and Quality Requirements.

The materials used throughout the work shall conform to the requirements of the Contract. The Contractor shall regulate his supplies so that there will be a sufficient quantity of tested material on hand at all times to prevent any delay of work. Except as otherwise specified, materials, equipment, and components shall be new.

At the option of the QA Manager, materials may be approved at the source of supply. If it is found during the life of the Contract that previously approved sources of supply do not supply materials or equipment conforming to the requirements of the Contract, do not furnish the valid test data required to document the quality of the material or equipment, or do not furnish valid quantities to document payment, the Contractor shall change the source of supply and furnish material or equipment from other approved sources. The Contractor shall notify the QA Manager of this change, and provide the same identifying information noted hereinbefore, at least 60 days prior to their use on the project, but not less than two weeks prior to delivery.

Materials shall not be furnished from a source that has been identified by the Office of Federal Activities as being on the EPA's list of violating facilities.

When optional materials are included in the Contract, the Contractor shall advise the QA Manager in writing of the specific materials selected. Thereafter, the Contractor shall use the selected materials throughout the project unless a change is authorized in writing by the QA Manager. However, when the Contractor has an option as to the type of pipe that may be used, he may use any one of the approved types for each size of pipe, but he shall use the same type for a particular line. The QA Manager may authorize other types and sources in an emergency that will unreasonably delay delivery of the selected material.

Equipment and material guaranties or warranties that are normally given by a manufacturer or supplier, or are otherwise required in the Contract, shall be obtained by the Contractor and assigned to the State in writing.

106.02--Not Used

106.03--Local Material Sources (Pits and Quarries).

Local material sources shall be concealed from view from the completed roadway and any existing public roadway. Concealment shall be accomplished by selectively locating the pit or quarry and spoil pile, providing environmentally compatible screening between the pit or quarry site and the roadway, or using the site for another purpose after removal of the material. The foregoing requirements shall also apply to any pit or quarry opened or reopened by a subcontractor or supplier. However, the requirements will not apply to commercial sand and gravel and quarry operations actively processing material at the site prior to the date of the execution of the Contract.

The QA Manager shall obtain a statement signed by the property owner in which the property owner agrees to the use of his property as a source of material for the project. Upon completion of the use of the property as a material source, the QA Manager shall obtain a release signed by the property owner indicating that the property has been satisfactorily restored. This requirement does not apply to commercial sources or sources owned by the Contractor.

Local material pits and quarries shall not be opened or reopened without authorization by the QA Manager. The Contractor shall obtain the approval of a site plan from the QA Manager, including (1) the location and approximate boundaries of the excavation with a slope gradient of 3:1 or greater; (2) procedures to minimize erosion and siltation; (3) provision of environmentally compatible screening; (4) restoration; (5) cover vegetation; (6) other use of the pit or quarry after removal of material, including the spoil pile; (7) the drainage pattern on and away from the area of land affected, including the directional flow of water; (8) constructed or natural waterways used for discharge; and (9) a sequence and schedule to achieve the approved plan. The site plan shall also include sediment basins if required. Sediment basins are required if the runoff from a watershed area of 1.2 hectares or more flows across a disturbed area of 930 square meters or greater. The Contractor shall design, construct and maintain the basin to accommodate the anticipated sediment loading from the land disturbing activity. The Contractor shall certify that the sediment basin design is in compliance with the Virginia Erosion and Sediment Control Regulations.

The Contractor's design and restoration shall be in accordance with the Contract and in accordance with the requirements of the federal, state, and local laws and regulations.

If the approved plan provides for the continued use or other use of the pit or quarry beyond the date of final acceptance, the Contractor shall furnish the Department a bond made payable to the Commonwealth of Virginia in an amount equal to the Engineer's estimate of the cost of performing the restoration work. If the pit or quarry is not used in accordance with the approved plan within 8 months after final acceptance, the Contractor shall perform restoration work as directed by the Engineer, forfeit his bond, or furnish the Engineer with evidence that he has complied with the applicable requirements of the State Mining Law.

Topsoil on borrow sites shall be stripped and stockpiled as directed by the QA Manager for use as needed within the construction limits of the project or in the reclamation of borrow and disposal areas.

If the Contractor fails to provide necessary controls to prevent erosion and siltation, such efforts are not made in accordance with the approved sequence, or the efforts are found to be inadequate, he shall take immediate action to abate erosion and siltation. The QA Manager may cause the Contractor to cease all contributing operations and direct efforts toward corrective action or may perform the work with state forces or other means determined

by the QA Manager. If the work is not performed by the Contractor, the cost of performing the work, plus 25 percent for supervisory and administrative personnel, will be deducted from moneys due the Contractor.

Costs for applying seed, fertilizer, lime, and mulch; restoration; drainage; erosion and siltation control; regrading; haul roads; and screening shall be included in the Contract Price for the type of excavation or other appropriate items.

If the Contractor fails to fulfill the provisions of the approved plan for screening or restoring material sources, the Department may withhold and use for the purpose of performing such work any moneys due the Contractor. The Contractor will be held liable for penalties, fines, or damages incurred by the Department as a result of his failure to prevent erosion or siltation.

After removing the material, the Contractor shall remove metal, lumber, and other debris resulting from his operations and shall shape and landscape the area in accordance with the approved plan for such work.

If payment is to be made for material measured in its original position, material shall not be removed until cross sections have been taken. The material shall be reserved exclusively for use on the project until completion of the project or until final cross sections have been taken.

106.04--Disposal Areas.

Unsuitable or surplus material whose presence is shown on the plans shall be deposited on approved areas located off the right of way. The Contractor shall obtain the necessary rights to such property provided at least one property owner having a suitable location is willing to enter a reasonable agreement.

The QA Manager shall obtain a statement signed by the property owner in which the owner agrees to the use of his property for the deposit of material from the project. Upon completion of the use of the property as a disposal area, the QA Manager shall obtain a release signed by the property owner indicating that the property has been satisfactorily restored. This requirement will be waived for property that is owned by the Contractor or the Department or for which rights have been procured by the Department.

Prior to opening a disposal area, the Contractor shall obtain the approval of a site plan from the QA Manager. The plan shall show (1) the location and approximate boundaries of the disposal area; (2) all procedures to minimize erosion and siltation; (3) haul roads; (4) provision for environmentally compatible screening; (5) restoration of and cover vegetation for the area following the deposit of material; (6) the drainage pattern on and away from the area affected, including constructed or natural waterways used for drainage; (7) the streams or tributaries receiving the discharge; and (8) a sequence and schedule to complete the work. The site plan shall also include sediment basins if required. Sediment basins are required if the runoff from a watershed area of 1.2 hectares or more flows across a disturbed area of 930 square meters or greater. The Contractor shall design, construct and maintain the basin to accommodate the anticipated sediment loading from the land disturbing activity. The Contractor shall certify that the sediment basin design is in compliance with the Virginia Erosion and Sediment Control Regulations.

Disposal areas shall be cleared but need not be grubbed. The clearing work shall not damage grass, shrubs, or vegetation outside the limits of the approved area and haul roads thereto. After the material has been deposited, the area shall be shaped to minimize erosion and siltation of nearby streams and landscaped in accordance with the approved plan for such work or shall be used as approved by the QA Manager.

Excavated rock in excess of that used in embankments in accordance with the requirements of Section 303 shall be deposited off the right of way in an approved disposal area. Deposits whose surface is composed largely of rock shall be leveled by special arrangement of the material or reduction of the irregularity of the surface by crushing projections to create a reasonably uniform and neat appearance.

The Contractor's design and restoration shall be in accordance with the requirements of the Contract and federal, state, and local laws and regulations.

If the Contractor fails to provide the necessary controls to prevent erosion and siltation, such efforts are not made in accordance with the approved sequence, or the efforts are found to be inadequate, he shall take immediate action to abate erosion and siltation. The QA Manager shall cause the Contractor to cease all contributing operations and direct efforts toward corrective action. If the work is not performed by the Contractor, the Department may perform the work and in such event the Contractor shall reimburse the Department for the entire cost of performing the work, plus 25 percent for supervisory and administrative personnel. The Department may obtain reimbursement directly from the Bond Trustee and the amount paid to the Department by the Bond Trustee will be deducted from progress payments.

Costs for applying seed, lime, fertilizer, and mulch; reforestation; drainage; erosion and siltation control; regrading; haul roads; and screening shall be included in the Contract Price for excavation.

If the Contractor fails to fulfill the provisions of the approved plan for screening or restoring disposal areas, the Department may withhold and use for the purpose of performing such work any moneys due the Contractor. The Contractor shall be held liable for all penalties, fines, or damages incurred by the Department as a result of his failure to prevent erosion or siltation.

106.05--Rights for and Use of Materials Found on Project.

With approval of the QA Manager, the Contractor may use in the project any materials found in the excavation that comply with the specifications. The Contractor shall replace at his own expense with other acceptable material the excavation material removed and used that is needed for use in embankments, backfills, approaches, or otherwise. The Contractor shall not excavate or remove any material from within the construction limits that is not within the grading limits, as indicated by the slope and grade lines, without authorization by the QA Manager.

106.06--Not Used

106.07--Not Used

106.08--Not Used

106.09--Not Used

106.10--Not Used

106.11--Material Furnished by the Department.

The Contractor shall furnish all materials required to complete the work except those specified to be furnished by the Department.

Material furnished by the Department will be delivered or made available to the Contractor at the points specified in the Contract. The cost of handling and placing materials after delivery to the Contractor shall be included in the Contract Price for the item with which they are used.

The Contractor shall be responsible for material delivered to him, including shortages, deficiencies, and damages that occur after delivery, and any demurrage charges.

106.12--Metric Substitutions

The Department recognizes the fact that certain materials specified in metric units and necessary for construction of this project may not be commercially available at the time they are required for construction. Imperial items may be substituted for metric units provided these items conform to the closest English equivalent in size for the specified metric item.

Direct substitution of reinforcing steel and high strength bolts in accordance with the tables shown herein will be allowed.

REINFORCING STEEL

METRIC	ENGLISH
10	3
13	4
16	5
19	6
22	7
25	8
29	9
32 or 33	10
36	11

HIGH STRENGTH BOLTS

METRIC	ENGLISH
M16	5/8"
M22	7/8"
M27	1-1/8"
M30	1-1/4"

Where the specifications require the Contractor to submit working plans or shop drawings, these drawings shall be provided in metric units or in dual units (English and metric) at the Contractor's option.

SECTION 107–LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

107.01–Not Used.

107.02–Not Used.

107.03–Not Used.

107.04–Restoration of Work Performed by Others.

The Department may construct or reconstruct any utility service in the highway or street or grant a permit for the same at any time. The Contractor shall not be entitled to any damages occasioned thereby.

When authorized by the QA Manager, the Contractor shall allow any person, firm, or corporation to make an opening in the highway within the limits of the project upon presentation of a duly executed permit from the Department or any municipality for sections within its corporate limits. The Contractor shall satisfactorily repair portions of the work disturbed by the openings.

107.05–Federal-Aid Provisions.

When the U.S. government pays all or any portion of the cost of a project, the Contractor shall observe the federal laws and rules and regulations made pursuant to such laws. The work shall be subject to inspection by the appropriate federal agency.

Such inspection shall in no sense make the federal government a party of the Contract and will in no way interfere with the rights of either party.

107.06–Sanitary Provisions.

The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of employees as may be necessary to comply with the requirements of the state and local Board of Health or other bodies or tribunals having jurisdiction.

107.07–Public Convenience and Safety.

The Contractor shall conduct his work so as to ensure the least possible obstruction to traffic. The Contractor shall provide for the safety and convenience of the general public and residents along the highway and the protection of persons and property as specified in Section 104.04.

107.08–Railway-Highway Provisions.

If the Contractor's work requires hauling materials across the tracks of a railway, he shall make arrangements with the railway for any new crossing(s) required or the use of any existing crossing. Charges made by the railway company for the construction or use of new or existing crossings and their subsequent removal and for

watchperson or flagger service at such crossings shall be reimbursed by the Contractor directly to the railway company under the terms of their own arrangements before final acceptance.

Work to be performed by the Contractor in construction on or over the railway right of way shall be performed at times and in a manner that will not interfere unnecessarily with the movement of trains or traffic on the railway track. The Contractor shall use care to avoid accidents, damage, or unnecessary delay or interference with the railway company's trains or other property. If any interruption of railway traffic is required by the Contractor's actions, he shall obtain prior written approval from the railway company.

The Contractor shall conduct operations that occur on or over the right of way of any railway company fully within the rules, regulations, and requirements of the railway company and in accordance with the requirements of any agreements made between the Department and railway company that are made a part of the Contract.

(a) **Flagger or Watchperson Services:** Flagger or watchperson services required by the railway company for the safety of railroad operations because of work being performed by the Contractor or incidental thereto will be provided by the railway company. Any cost of such services shall be borne by the Contractor and shall be paid directly to the railway company(s) under the terms of their own agreement.

No work shall be undertaken on or over the railway right of way until the watchpersons or flaggers are present at the project site. The Contractor shall continuously prosecute the affected work to completion to minimize the need for flagger or watchperson services.

(b) **Approval of Construction Methods on Railway Right of Way:** The Contractor shall submit to the QA Manager a plan of operations showing the design and method of proposed structural operations and shall obtain its approval before performing any work on the railway company's right of way unless otherwise indicated in the railroad agreement. The plan shall be clear and legible, and details shall be drawn to scale. The plan shall show the following:

1. proximity of construction operations to tracks
2. depth of excavation with respect to tracks
3. description of structural units
4. vertical and horizontal clearances to be afforded the railroad during installation and upon completion of excavation
5. sheeting and bracing
6. method and sequence of operations

Approval shall not relieve the Contractor of any liability under the Contract. The Contractor shall arrange the work so as not to interfere with the railway company's operation except by agreement with the railway company.

(c) **Insurance:** In addition to insurance or bonds required under the terms of the Contract, the Contractor shall carry insurance covering operations affecting the property of the railway company. The original railroad protective liability insurance policy and certificate of insurance showing insurance carried by the Contractor and any subcontractors shall be submitted to the railway company for approval and retention.

Neither the Contractor nor any subcontractor shall begin any work affecting the railway company until the railway company has received the insurance.

Notice of any material change in or cancellation of the required policies shall be furnished the Department and the railway company at least 30 days prior to the effective date of the change or cancellation. The insurance shall be of the following kinds and amounts:

1. **Contractor's public liability and property damage insurance:** The Contractor shall furnish evidence to the Department with respect to the operations to be performed that he carries regular contractor's public liability insurance. The insurance shall provide for a limit of at least the dollar value specified in the Contract for all damages arising out of bodily injuries to or the death of one person, and subject to that limit for each person, a total limit of at least the dollar value specified in the Contract for all damages arising out of bodily injuries to or death of two or more persons in any one occurrence, and regular contractor's property damage insurance providing for a limit of at least the dollar value specified in the Contract for all damages arising out of bodily injury to or destruction of property in any one occurrence, and subject to that limit per occurrence, a total or aggregate limit of at least the dollar value specified in the Contract for all damages arising out of injury to or destruction of property during the policy period. The Contractor's public liability and property damage insurance shall include explosion, collapse, and underground damage coverage. If the Contractor subcontracts any portion of the work, he shall secure insurance protection in his own behalf under the Contract's public liability and property damage insurance policies to cover any liability imposed on him by law for damages because of bodily injury to, or death of persons and injury to, or destruction of property as a result of work undertaken by the subcontractors. In addition, the Contractor shall provide similar insurance protection for and on behalf of any subcontractors to cover their operation by means of separate and individual contractor's public liability and property damage policies. As an alternative, he shall require each subcontractor to provide such insurance in his own behalf.

2. **Railroad protective insurance and public liability and property damage:** The policy furnished the railway company shall include coverage for contamination, pollution, explosion, collapse, and underground damage. The policy shall be of the type specified hereinafter and shall be expressed in standard language that may not be amended. No part may be omitted except as indicated hereinafter or by an endorsement that states an amendment or exclusion of some provision of the form in accordance with the provisions of a manual rule. The form of the endorsement shall be approved as may be required by the supervising authority of the state in which the policy is issued. A facsimile of the Declarations form as shown in the proposal shall be made a part of the policy and shall be executed by an officer of the insurance company. The several parts of the requirements and stipulations specified or inferred herein may appear in the policy in such sequence as the company may elect.

   a. **For a policy issued by one company:**

      (NAME AND LOCATION OF INDEMNITY COMPANY),
      a _____ Insurance Company, herein
      (Type of Company)

called the Company, agrees with the insured named in the Declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the Declarations made by the named insured and subject to all of the terms of his policy.

For a policy issued by two companies:

(NAME AND LOCATION OF INDEMNITY COMPANY)
and
(NAME AND LOCATION OF INDEMNITY COMPANY),
each a _____ Insurance Company,
(Type of Company)
herein called the Company, severally agree with the insured named in the Declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the Declaration made by the named insured and subject to all of the terms of this policy, provided the named Indemnity Company shall be the insured with respect to Coverage _____ and no other and the named Insurance Company shall be the insurer with respect to Coverage _____ and no other.

b. **Insuring agreements:**

(1) **Coverages: Coverage A--Bodily injury liability:** To pay on behalf of the insured all sums that the insured shall become legally obligated to pay as damages because of bodily injury, sickness, or disease including death at any time resulting therefrom (hereinafter called bodily injury) either (1) sustained by any person arising out of acts or omissions at the designated job site that are related to or are in connection with the work described in Item 6 of the Declarations; or (2) sustained at the designated job site by the Contractor, any employee of the Contractor, any employee of the governmental authority specified in Item 5 of the Declarations, or any designated employee of the insured, whether or not arising out of such acts or omissions.

Coverage B--Property damage liability: To pay on behalf of the insured all sums the insured shall become legally obligated to pay as damages because of physical injury to or destruction of property, including loss of use of any property because of such injury or destruction (hereinafter called property damage) arising out of acts or omissions at the designated job site that are related to or are in connection with the work described in Item 6 of the Declarations.

Coverage C--Physical damage to property: To pay for direct and accidental loss of or damage to rolling stock and other contents, mechanical construction equipment, or motive power equipment (hereinafter called loss) arising out of acts or omissions at the designated job site that are related to or are in connection with the work described in Item 6 of the Declarations; provided such property is owned by the

named insured or is leased or entrusted to the named insured under a lease or trust agreement.

(2) **Definitions:** *Insured* includes the named insured and any executive officer, director, or stockholder thereof while acting within the scope of his duties as such.

Contractor means the Contractor designated in Item 4 of the Declarations and includes all subcontractors of the Contractor but not the named insured.

Designated employee of the insured means (1) any supervisory employee of the insured at the job site; (2) any employee of the insured while operating, attached to, or engaged on work trains or other railroad equipment at the job site that is assigned exclusively to the Contractor; or (3) any employee of the insured not within (1) or (2) who is specifically loaned or assigned to the work of the Contractor for prevention of accidents or protection of property, the cost of whose services is borne specifically by the Contractor or governmental authority.

Contract means any contract or agreement to carry a person or property for a consideration or any lease, trust, or interchange contract or agreement respecting motive power, rolling stock, or mechanical construction equipment.

(3) **Defense and settlement supplementary payments:** With respect to such insurance as is afforded by this policy under Coverages A and B, the Company shall defend any suit against the insured alleging such bodily injury or property damage and seeking damages that are payable under the terms of this policy, even if any of the allegations of the suit are groundless, false, or fraudulent. However, the Company may make such investigation and settlement of any claim or suit as it deems expedient.

In addition to the applicable limits of liability, the Company shall pay (1) all expenses incurred by the company, all costs taxed against the insured in any such suit, and all interest on the entire amount of any judgment therein that accrues after entry of the judgment and before the Company has paid or tendered or deposited in court that part of the judgment that does not exceed the limit of the Company's liability thereon; (2) premiums on appeal bonds required in any such suit and premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this policy, but without obligation to apply for or furnish any such bonds; (3) expenses incurred by the insured for first aid to others that shall be imperative at the time of the occurrence; and (4) all reasonable expenses, other than loss of earnings, incurred by the insured at the Company's request.

(4) **Policy period and territory:** This policy applies only to occurrences and losses during the policy period and within the United States, its territories or possessions, or Canada.

c. **Exclusions:** This policy does not apply to the following:

(1) liability assumed by the insured under any contract or agreement except a contract as defined herein

(2) bodily injury or property damage caused intentionally by or at the direction of the insured

(3) bodily injury, property damage, or loss that occurs after notification to the named insured of the acceptance of the work by the governmental authority, other than bodily injury, property damage, or loss resulting from the existence or removal of tools, uninstalled equipment, and abandoned or unused materials

(4) under Coverage A(1), B, and C, to bodily injury, property damage, or loss, the sole proximate cause of which is an act or omission of any insured

(5) under Coverage A, to any obligation for which the insured or any carrier as his insurer may be held liable under any workers' compensation, employment compensation, or disability benefits law or under any similar law; provided that the Federal Employer's Liability Act, U.S. Code (1946) Title 45, Sections 51-60, as amended, shall for the purpose of this insurance be deemed not to be any similar law

(6) under Coverage B, to injury to or destruction of property owned by the named insured or leased or entrusted to the named insured under a lease or trust agreement

(7) under any liability coverage, to injury, sickness, disease, death, or destruction (1) with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or Nuclear Insurance Association of Canada or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or (2) resulting from the hazardous properties of nuclear material and with respect to which any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954 or any law amendatory thereof or the insured is (or had this policy not been issued would be) entitled to indemnity from the United States or any agency thereof under any agreement entered into by the United States, or any agency thereof, with any person or organization

(8) under any Medical Payments Coverage or any Supplementary Payments provision relating to immediate medical or surgical relief or to expenses

incurred with respect to bodily injury, sickness, disease, or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization

(9) under any liability coverage, to injury, sickness, disease, death, or destruction resulting from the hazardous properties of nuclear material if (1) the nuclear material is at any nuclear facility owned or operated by or on behalf of an insured or has been discharged or dispersed therefrom; (2) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported, or disposed of by or on behalf of an insured; or (3) the injury, sickness, disease, death, or destruction arises out of the furnishing by an insured of services, materials, or parts for equipment in connection with the planning, construction, maintenance, operation, or use of any nuclear facility; if such facility is located in the United States, its territories or possessions, or Canada, this exclusion applies only to injury to or destruction of property at such nuclear facility

(10) under Coverage C, to loss attributable to nuclear reaction, nuclear radiation, or radioactive contamination or to any act or condition incident to any of the foregoing

As used in exclusions 7, 8, and 9, the following definitions apply: *Hazardous properties* include radioactive, toxic, or explosive properties. *Nuclear material* means source material, special nuclear material, or byproduct material. *Source material, special nuclear material, and byproduct material* have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof. *Spent fuel* means any fuel element or fuel component (solid or liquid) that has been used or exposed to radiation in a nuclear reaction. *Disposable material* means material containing byproduct material and resulting from the operation by any person or organization of any nuclear facility included in the definition of nuclear facility under 1 or 2 below. *Nuclear facility* means

(1) any nuclear reactor

(2) any equipment or device designed or used for separating the isotopes of uranium or plutonium; processing or utilizing spent fuel; or handling, processing, or packaging waste

(3) any equipment or device designed or used for the processing, fabricating, or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 (or any combination thereof) or more than 250 grams of uranium 235

(4) any structure, basin, excavation, premises, or place prepared or used for the storage or disposal of waste (includes the site on which any of the

foregoing is located, all operation conducted on such site, and all premises used for such operations)

Nuclear reactor means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to injury to or destruction of property, *injury* or *destruction* includes all forms of radioactive contamination of property.

d. **Conditions:** The following conditions, except conditions (3) through (12), apply to all coverages. Conditions (3) through (12) apply only to the coverage noted thereunder.

(1) **Premium:** The premium bases and rates for the hazards described in the Declarations are stated therein. Premium bases and rates for hazards not so described are those applicable in accordance with the requirements of the manuals used by the company. The term *contract cost* means the total cost of all work described in Item 6 of the Declaration. The term *rental cost* means the total cost to the Contractor for rental or work trains or other railroad equipment, including the remuneration of all employees of the insured while operating, attached to, or engaged thereon. The advance premium stated in the Declarations is an estimated premium only. Upon termination of this policy, the earned premium shall be computed in accordance with the Company's rules, rates, rating plans, premiums, and minimum premiums applicable to this insurance. If the earned premium thus computed exceeds the estimated advance premium paid, the Company shall look to the Contractor specified in the Declarations for any such excess. If less, the Company shall return to the Contractor the unearned portion paid. In no event shall payment or premium be an obligation of the named insured.

(2) **Inspection:** The named insured shall make available to the Company records of information relating to the subject matter of this insurance. The Company shall be permitted to inspect all operations in connection with the work described in Item 6 of the Declarations.

(3) **Limits of liability, Coverage A:** The limit of bodily injury liability stated in the Declarations as applicable to "each person" is the limit of the Company's liability for all damages (including damages for care and loss of services) arising out of bodily injury sustained by one person as the result of any one occurrence. The limit of such liability stated in the Declarations as applicable to "each occurrence" is (subject to the provision respecting each person) the total limit of the Company's liability for all such damage arising out of bodily injury sustained by two or more persons as the result of any one occurrence.

(4) **Limits of liability, Coverages B and C:** The limit of liability under Coverages B and C stated in the Declarations as applicable to "each occurrence" is the total limit of the Company's liability for all damages and all loss under Coverages B and C combined arising out of physical

injury to, destruction of, or loss of all property of one or more persons or organizations, including the loss or use of any property attributable to such injury or destruction under Coverage B, as the result of any one occurrence. Subject to the provision respecting "each occurrence," the limit of liability under Coverages B and C stated in the declaration as "aggregate" is the total limit of the Company's liability for all damages and all loss under Coverages B and C combined arising out of physical injury to, destruction of, or loss of property, including the loss or use of any property attributable to such injury or destruction under Coverage B.

Under Coverage C, the limit of the Company's liability for loss shall not exceed the actual cash value of the property, or if the loss is a part thereof, the actual cash value of such part, at time of loss, nor what it would then cost to repair or replace the property of such part thereof with other of like kind and quality.

(5) **Severability of interests, Coverages A and B:** The term *the insured* is used severally and not collectively. However, inclusion herein of more than one insured shall not operate to increase the limits of the Company's liability.

(6) **Notice:** In the event of an occurrence or loss, written notice containing particulars sufficient to identify the insured and also reasonably obtainable information with respect to the time, place, and circumstances thereof and the names and addresses of the injured and of able witnesses shall be given by or for the insured to the company or any of its authorized agents as soon as is practicable. If a claim is made or a suit is brought against the insured, he shall immediately forward to the

Company every demand, notice, summons, or other process received by him or his representative.

(7) **Assistance and cooperation of the insured, Coverages A and B:** The insured shall cooperate with the Company and upon the Company's request attend hearings and trials and assist in making settlements, securing and giving evidence, obtaining the attendance of witnesses, and conducting suits. Except at his own cost, the insured shall not voluntarily make any payment, assume any obligations, or incur any expense other than for first aid to others that shall be imperative at the time of an accident.

(8) **Action against Company, Coverages A and B:** No action shall lie against the Company unless as a condition precedent thereto the insured shall have fully complied with all the terms of this policy, nor until the amount of the insured's obligation to pay shall have been finally determined either by judgment against the insured after actual trial or by written agreement of the insured, the claimant, and the Company. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover

under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the Company as a part to any action against the insured to determine the insured's liability. Bankruptcy or insolvency of the insured or of the insured's estate shall not relieve the Company of any of its obligations hereunder.

(9) **Action against Company, Coverage C:** No action shall lie against the Company unless as a condition precedent thereto there shall have been full compliance with all the terms of this policy nor until 30 days after proof of loss is filed and the amount of loss is determined as provided in this policy.

(10) **Insured's duties in event of loss, Coverage C:** In the event of loss, the insured shall protect the property, whether or not the loss is covered by this policy. Any further loss attributable to the insured's failure to protect shall not be recoverable under this policy. Reasonable expenses incurred in affording such protection shall be deemed incurred at the company's request.

The insured shall also file with the Company, as soon as practicable after loss, his sworn proof of loss in such form and including such information as the Company may reasonably require and shall, upon the Company's request, exhibit the damaged property.

(11) **Appraisal, Coverage C:** If the insured and the Company fail to agree as to the amount of loss, either may demand an appraisal of the loss within 60 days after the proof of loss is filed. In such event the insured and the Company shall each select a competent appraiser, and the appraisers shall select a competent and disinterested umpire. An award in writing or any two shall determine the amount of loss. The insured and the Company shall each pay his chosen appraiser and shall bear equally the other expenses of the appraisal and umpire. The Company shall not be held to have waived any of its rights by any act relating to appraisal.

(12) **Payment of loss, Coverage C:** The Company may pay for the loss in money, but there shall be no abandonment of the damaged property to the Company.

(13) **No benefit to bailee coverage:** The insurance afforded by this policy shall not enure directly or indirectly to the benefit of any carrier or bailee (other than the named insured) liable for loss to the property.

(14) **Subrogation:** In the event of any payment under this policy, the Company shall be subrogated to all of the insured's rights of recovery therefor against any person or organization. The insured shall execute and deliver instruments and papers and do whatever else is necessary to

secure such rights. The insured shall do nothing after loss to prejudice such rights.

(15) **Application of insurance:** The insurance afforded by this policy is primary insurance. If the insured has other primary insurance against a loss covered by this policy, the Company shall not be liable under the policy for a greater proportion of such loss than the applicable limit of liability stated in the Contract bears to the total applicable limit of all valid and equitable insurance against such loss.

(16) **3-year policy:** A policy period of 3 years is comprised of three consecutive annual periods. Computation and adjustment of earned premium shall be made at the end of each annual period. Aggregate limits of liability as stated in this policy shall apply separately to each annual period.

(17) **Changes:** Notice to any agent of knowledge possessed by any agent or by any other person shall not affect a waiver or a change in any part of this policy or stop the Company from asserting any right under the terms except by endorsement issued to form a part of this policy signed by *_____ provided, however, changes may be made in the written portion of the declaration by *_____ when initialed by such *_____ or by endorsement issued to form a part of this policy signed by such *_____. [*Insert titles of authorized company representatives.]

(18) **Assignment:** Assignment of interest under this policy shall not bind the Company until its consent is endorsed hereon.

(19) **Cancellation:** This policy may be canceled by the named insured by mailing to the Company written notice stating when the cancellation shall become effective. This policy may be canceled by the Company by mailing to the named insured, Contractor, and governmental authority at the respective addresses shown in this policy written notice stating when such cancellation shall be effective (not less than 30 days thereafter). The mailing of notice shall be sufficient proof of notice. The effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the named insured or the Company shall be equivalent to mailing. If the named insured cancels, the earned premium shall be computed in accordance with the customary short rate table and procedure. If the Company cancels, the earned premium shall be computed pro rata. The premium may be adjusted either at the time cancellation is effected or as soon as practicable after the cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

(20) **Declarations:** By acceptance of this policy, the named insured agrees that such statements in the Declarations as are made by him are his

agreements and representations, that his policy is issued in reliance on the truth of such representations, and that this policy embodies all agreements existing between himself and the Company or any of its agents relating to this insurance.

e. **For a policy issued by one company:**

In witness whereof, the _____ Indemnity Company has caused this policy to be signed by its president and a secretary at _____ and countersigned on the Declarations page by a duly authorized agent of the Company.

(Facsimile of Signature) Secretary	(Facsimile of Signature) President

For a policy issued by two companies:

In witness whereof, the _____ Indemnity Company has caused this policy with respect to Coverages _____ and such other parts of the policy as are applicable thereto to be signed by its president and a secretary at _____ and countersigned on the Declarations page by a duly authorized agent of the Company.

(Facsimile of Signature) Secretary	(Facsimile of Signature) President

(d) **Submitting Copies of Insurance Policies:** Prior to beginning construction operations on or over the railway right of way, the Contractor shall submit to the Department evidence of the railway company's approval and a copy of the required insurance policies. The State will not be responsible for any claims from the Contractor resulting from delay in the acceptance of any of these policies by the railway company other than consideration of an extension of time. If the delay is caused by the failure of the Contractor or his insurer to file the required insurance policies promptly, an extension of time will not be granted.

(e) **Beginning Construction:** Preliminary contingent work or other work by the railway company may delay the starting or continuous prosecution of the work by the Contractor. The Contractor shall be satisfied as to the probable extent of such work and its effect on the operations prior to submitting a proposal. The State will not be responsible for any claims by the Contractor resulting from such delays.

(f) **Arranging for Tests:**

1. **Railroad specifications:** When ordering materials that are to conform to railroad specifications, the Contractor shall notify the railway company, who will arrange for tests. The Contractor shall specify in each order that the materials are to be tested in accordance with the requirements of the railroad specifications and not those of the Department.

2. **Highway specifications:** When ordering materials that are to conform to highway specifications, the Contractor shall specify in each order that the materials are to be tested in accordance with the requirements of VDOT specifications.

107.09--Construction Over or Adjacent to Navigable Waters.

The Contractor shall conduct the work on navigable waters so as to ensure the least possible obstruction to navigation and that the existing navigable depths will not be impaired except as may be allowed by a permit issued by the U.S. Coast Guard. The Contractor shall also provide and maintain temporary navigation lights and signals required by U.S. Coast Guard regulations for the protection of navigation. When the QA Manager determines that the work has reached a point where such action may be taken, the channel(s) through the structure shall be promptly cleared of falsework, piling, or other obstructions placed therein or caused by the construction of the structure to the satisfaction of the Coast Guard.

107.10--Barricades and Warning Signs.

The Contractor shall take all necessary precautions for the protection of the work and the safety of the public as described herein and in Sections 104.04, 107.07, and 512.

Highways closed to traffic shall be protected by barricades and other warning devices as required by the QA Manager. Barricades and warning devices shall be illuminated where required during darkness and low visibility. The Contractor shall erect warning devices in advance of a location on the project where operations or obstructions may interfere with the use of the road by traffic and at all intermediate points where the new work crosses or coincides with an existing roadway. The Contractor shall maintain sign faces and reflective surfaces of warning devices in a clean and visible condition. Barricades, warning signs, lights, temporary signals, and other protective devices shall conform to the requirements of the *MUTCD*. The reflective surface of signs and safety devices furnished by the Contractor shall be fabricated using encapsulated lens reflective sheeting conforming to the requirements of Section 701.

107.11--Use of Explosives.

The Contractor shall be responsible for damage resulting from the use of explosives. Explosives shall be stored in a secure manner in compliance with federal, state, and local laws and ordinances.

The Contractor shall notify each property and utility owner having a building, structure, or other installation above or below ground in proximity to the site of the work of his intention to use explosives. Notice shall be given sufficiently in advance to enable the owners to take steps to protect their property. Notice shall not relieve the Contractor of responsibility for damage resulting from his blasting operations.

107.12--Protecting and Restoring Property and Landscape.

The Contractor shall preserve property and improvements along the lines of and adjacent to the work unless their removal or destruction is called for by the plans. The Contractor shall use suitable precautions to prevent damage to such property.

When the Contractor finds it necessary to enter on private property, he shall secure from the owner or lessee a written permit for such entry prior to moving thereon. An executed copy of this permit shall be retained by the QA Manager.

The Contractor shall be responsible for damage or injury to property during the prosecution of the work resulting from any act, omission, neglect, or misconduct in the method of executing the work or attributable to defective work or materials. This responsibility shall not be released until final acceptance of the project.

When direct or indirect damage is done to property by or on account of any act, omission, neglect, or misconduct in the method of executing the work or in consequence of the nonexecution thereof on the part of the Contractor, the Contractor shall restore such property to a condition similar or equal to that existing before such damage was done by repairing, rebuilding, or restoring, as may be directed by the QA Manager, or making settlement with the property owner. The Contractor shall secure from the owner a release from any claim against the Department without additional compensation therefor. A copy of this release shall be retained by the QA Manager.

107.13--Responsibility for Damage Claims.

When any act, omission, or other action of the Contractor occurs that affects the health, safety, or welfare of the public, the Engineer will direct the Contractor to take prompt action to repair, replace, or restore the damage or injury within a time frame established by the Engineer. If the Contractor fails to make such repair, replacement, or restoration within the established time frame, the Engineer will have the damage or injury repaired, replaced, or restored and will deduct the cost of such repair, replacement, or restoration from moneys due the Contractor.

107.14--Environmental Stipulations.

The Contractor hereby represents (1) that any facility to be used in the performance of the Contract (unless the Contract is exempt under the Clean Air Act as amended [42 U.S.C. 1857, et seq., as amended by P.L. 91-604], the Federal Water Pollution Control Act as amended [33 U.S.C. 1251 et seq. as amended by P.L. 92-500], and Executive Order 11738 and regulations in implementation thereof [40 C.F.R., Part 15]) is not listed on the EPA's List of Violating Facilities pursuant to 40 C.F.R. 15.20; and (2) that the Department will be promptly notified prior to the award of the Contract if the Contractor receives any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be used for the Contract is under consideration to be listed on the EPA's List of Violating Facilities.

No separate payment will be made for the work or precautions described herein except where provided for in the Contract or except where provision has been made for such payment in these specifications.

(a) **Erosion and Siltation:** The Contractor shall exercise every reasonable precaution, including temporary and permanent measures, throughout the duration of the project to control erosion and prevent or minimize siltation of rivers, streams, lakes, and impoundments. Siltation control measures shall be applied to erodible material exposed by any activity associated with construction, including local material sources, stockpiles, disposal areas, and haul roads.

Temporary measures shall be coordinated with contract work to the extent practicable to ensure economical, effective, and continuous erosion and siltation control. Permanent erosion control measures and drainage facilities shall be installed as the work progresses.

The Contractor shall inspect erosion and siltation control devices and measures for deficiencies immediately after each rainfall and at least daily during prolonged rainfall. Deficiencies shall be corrected immediately. Failure on the part of the Contractor to maintain erosion and siltation control devices in a functioning condition shall result in the QA Manager notifying the Contractor in writing of specific deficiencies. If the Contractor fails to correct or take appropriate actions to remedy the specified deficiencies within 24 hours after receipt of such notification, the QA Manager shall require the Contractor to discontinue work in other areas and concentrate efforts toward rectifying the specified deficiencies. If the work is not performed by the Contractor, the Department may perform the work and in such event the Contractor shall reimburse the Department the entire cost of performing the work, plus 25 percent for supervisory and administrative personnel. The Department may obtain reimbursement directly from the Bond Trustee and the amount paid to the Department by the Bond Trustee will be deducted from progress payments.

(b) **Pollution:**

1. **Water:** The Contractor shall exercise every reasonable precaution throughout the duration of the project to prevent pollution of rivers, streams, and impoundments. Pollutants such as chemicals, fuels, lubricants, bitumens, raw sewage, paints, sedimentation, and other harmful material shall not be discharged into or alongside rivers, streams, or impoundments or into channels leading to them.

   Construction discharge water shall be filtered to remove deleterious materials prior to discharge into state waters. During specified spawning seasons, discharges and construction activities in spawning areas of state waters shall be restricted so as not to disturb or inhibit aquatic species that are indigenous to the waters. Neither water nor other effluence shall be discharged onto wetlands or breeding or nesting areas of migratory waterfowl. When used extensively in wetlands, heavy equipment shall be placed on mats. Temporary construction fills and mats in wetlands and flood plains shall be constructed of approved nonerodible materials and shall be removed by the Contractor to natural ground when the QA Manager so directs.

   If the Contractor dumps, discharges, or spills any oil or chemical that reaches or has the potential to reach a waterway, he shall immediately notify all appropriate jurisdictional state and federal agencies in accordance with the requirements of the Contract and shall take immediate actions to contain, remove, and properly dispose of the oil or chemical.

   Excavation material shall be disposed of in approved areas above the mean high water mark shown on the plans in a manner that will prevent the return of solid or suspended materials to state waters. If the mark is not shown on the plans, the mean high water mark shall be considered the elevation of the top of stream banks.

   Constructing new bridge(s) and dismantling and removing existing bridge(s) shall be accomplished in a manner that will prevent the dumping or discharge of construction or disposable materials into rivers, streams, or impoundments.

   Construction operations in rivers, streams, or impoundments shall be restricted to those areas where channel changes are shown on the plans and to those that must be entered for the construction of structures. Rivers, streams, and impoundments shall be cleared of

falsework, piling, debris, or other obstructions placed therein or caused by construction operations.

The Contractor shall prevent stream constriction that would reduce stream flows below the minimum, as defined by the State Water Control Board, during construction operations.

If it is necessary to relocate an existing stream or drainage facility temporarily to facilitate construction, the Contractor shall design and provide temporary channels or culverts of adequate size to carry the normal flow of the stream or drainage facility. The Contractor shall submit a temporary relocation design to the QA Manager for review and acceptance in sufficient time to allow for discussion and correction prior to beginning the work the design covers. Costs for the temporary relocation of the stream or drainage facility shall be included in the Contract Price for the related pipe or box culvert.

Temporary bridges or other structures shall be used wherever an appreciable number of stream crossings will be made.

2. **Air:** The Contractor shall comply with the provisions of the Contract and the State Air Pollution Control Law and Rules of the State Air Pollution Control Board, including notifications required therein.

   Burning shall be performed in accordance with all applicable local laws and ordinances and under the constant surveillance of watchpersons. Care shall be taken so that the burning of materials does not destroy or damage property or cause excessive air pollution. The Contractor shall not burn rubber tires, asphalt, used crankcase oil, or other materials that produce dense smoke. Burning shall not be initiated when atmospheric conditions are such that smoke will create a hazard to the motoring public or airport operations. Provisions shall be made for flagging vehicular traffic if visibility is obstructed or impaired by smoke. At no time shall a fire be left unattended.

   Asphalt mixing plants shall be designed, equipped, and operated so that the amount and quality of air pollutants emitted will conform to the Rules of the State Air Pollution Control Board.

   Emission standards for asbestos incorporated in the EPA's National Emission Standards for Hazardous Air Pollutants apply to the demolition or renovation of any institutional, commercial, or industrial building, structure, facility, installation, or portion thereof that contains friable asbestos.

3. **Noise:** The Contractor's operations shall be performed so that exterior noise levels measured during a noise-sensitive activity shall be not more than 80 decibels. *Noise-sensitive activity* is any activity for which lowered noise levels are essential if the activity is to serve its intended purpose. Such activities include those associated with residences, hospitals, nursing homes, churches, schools, libraries, parks, and recreational areas.

   The QA Manager shall monitor construction-related noise if requested by local agencies, the Department or neighboring property owners. If construction noise levels exceed 80 decibels, the Contractor shall take corrective action before proceeding with operations.

The Contractor shall be responsible for costs associated with the abatement of construction noise and the delay of operations attributable to noncompliance with these requirements.

The QA Manager shall determine whether certain portions of the project any work that produce objectionable noise should be restricted or prohibited between 10 P.M. and 6 A.M. If other hours are established by local ordinance, the local ordinance shall govern.

Equipment shall in no way be altered so as to result in noise levels that are greater than those produced by the original equipment.

When feasible, the Contractor shall establish haul routes that direct his vehicles away from developed areas and ensure that noise from hauling operations is kept to a minimum.

These requirements are not applicable if the noise produced by sources other than the Contractor's operation at the point of reception is greater than the noise from the Contractor's operation at the same point.

(c) **Forests:** The Contractor shall take all reasonable precautions to prevent and suppress forest fires in any area involved in construction operations or occupied by him as a result of such operations. The Contractor shall cooperate with the proper authorities of the state and federal governments in reporting, preventing, and suppressing forest fires. Labor, tools, or equipment furnished by the Contractor upon the order of any forest official issued under authority granted the official by law shall not be considered a part of the Contract. The Contractor shall negotiate with the proper forest official for compensation for such labor, tools, or equipment.

(d) **Archeological, Paleontological, and Rare Mineralogical Findings:** In the event of the discovery of prehistoric ruins, Indian or early settler sites, burial grounds, relics, fossils, meteorites, or other articles of archeological, paleontological, or rare mineralogical interest during the prosecution of work, the Contractor shall act immediately to suspend work at the site of the discovery and notify the proper state authority charged with the responsibility of investigating and evaluating such finds. The Contractor shall cooperate and, assist in protecting, mapping, and removing the findings. Findings shall become the property of the State unless they are located on federal lands, in which event they shall become the property of the U.S. government.

107.15–Opening Sections of Projects to Traffic.

When specified in the Contract or when directed by the Engineer, certain sections of the work may be opened to traffic. Such opening shall not constitute acceptance of the work or any part thereof or a waiver of any provision of the Contract.

On any section of the work opened by order of the Engineer where the Contract does not provide for traffic to be carried through the work and the Contractor has not been dilatory in prosecuting the work, the Contractor will not be required to assume any expense entailed in maintaining the road for traffic. Such expense will be borne by the Department or will be compensated for in accordance with the requirements of the Contract. Repair of slides and repair of damage attributable to traffic will be compensated for in accordance with the requirements of the

Contract. The cost of all other repairs shall be borne by the Contractor. Slides shall be removed by the Contractor in accordance with the requirements of Section 303.

On any section of the work opened by order of the Engineer where the Contract does not provide for traffic to be carried through the work, any additional cost for the completion of other items of work that are occasioned because of the changed working conditions will be compensated in accordance with the requirements of the Contract.

If the Contractor is dilatory in completing the work, he shall not be relieved of the responsibility for maintenance during the period the section is opened to traffic prior to final acceptance. Any expense resulting from the opening of such portions under these circumstances, except slides, shall be borne by the Contractor. The Contractor shall conduct the remainder of the construction operations so as to cause the least obstruction to traffic.

107.16--Contractor's Responsibility for Work.

Until final acceptance of the work by the Engineer in accordance with the requirements of the Contract, the Contractor shall have charge and care thereof and shall take every precaution against damage to any part thereof by action of the elements or from any other cause. The Contractor shall rebuild, repair, restore, and make good damage to any portion of the work occasioned by any of the foregoing causes before final acceptance and shall bear the expense thereof.

In case of suspension of work, the Contractor shall be responsible for the project and shall take such precautions as may be necessary to prevent damage to the work, provide for erosion control and drainage, and erect any necessary temporary structures, signs, or other facilities at his own expense. During the suspension of work, the Contractor shall properly and continuously maintain in an acceptable growing condition all living material in newly established plantings, seedings, and soddings furnished under the Contract and shall take adequate precautions to protect new tree growth and other important vegetation against damage.

107.17--Contractor's Responsibility for Utility Property and Services.

At points where the Contractor's operations are adjacent to the properties of any utility, including railroads, and damage to which might result in considerable expense, loss, or inconvenience, work shall not commence until arrangements necessary for the protection thereof have been completed.

The Contractor shall cooperate with owners of utility lines so that removal and adjustment operations may progress in a reasonable manner, duplication of adjustment work may be reduced to a minimum, and services rendered by those parties will not be unnecessarily interrupted.

If any utility service is interrupted as a result of accidental breakage or of being exposed or unsupported, the Contractor shall promptly notify the proper authority and shall cooperate with the authority in the restoration of service. If utility service is interrupted, repair work shall be continuous until service is restored. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority. When the Contractor's work operations require the disconnection of "in service" fire hydrants, the Contractor shall notify the locality's fire department or communication center at least 24 hours prior to disconnection. In addition, the Contractor shall notify the locality's fire department or communications center no later than 24 hours after reconnection of such hydrants. The Contractor shall be responsible for any damage to utilities that is attributable to his neglect or methods of performing the work.

Nothing in this section shall be construed to be in conflict with Section 107.12.

107.18--Not Used.

107.19--Personal Liability of Public Officials.

In carrying out any of the provisions of these specifications or in exercising any power or authority granted to them by or within the scope of the Contract, there shall be no liability upon the Board, Commissioner, Engineer, or their authorized representatives, either personally or as officials of the State. In all such matters, they act solely as agents and representatives of the State.

107.20--No Waiver of Legal Rights.

The State shall not be precluded or estopped by any measurement, estimate, or certificate made either before or after final acceptance of the work and payment therefor from showing (1) the true amount and character of the work performed and materials furnished by the Contractor, (2) that any such measurement, estimate, or certificate is untrue or incorrectly made, or (3) that the work or materials do not conform with the provisions of the Contract. The State shall not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate, and payment in accordance therewith, from recovering from the Contractor or his surety, or both, such damage as it may sustain by reason of his failure to comply with the terms of the Contract. Neither the acceptance by the Department or any representative of the Department nor any payment for or acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by the Department shall operate as a waiver of any portion of the Contract or of any power herein reserved or of any right to damages. A waiver of any breach of the Contract shall not be held to be a waiver of any other or subsequent breach.

SECTION 108--PROSECUTION AND PROGRESS OF WORK

108.01--Not Used.

108.02--Not Used.

108.03--Prosecution of Work.

Work shall be conducted in such a manner and with sufficient materials, equipment, tools, and labor as are necessary to ensure its completion in accordance with the plans and these specifications within the time limit specified in the Contract and these specifications. Once the Contractor has begun work, it shall be prosecuted continuously and to the fullest extent possible except for interruptions caused by weather or delays authorized or ordered by the Engineer. If approval is given to discontinue the work temporarily, the Contractor shall notify the Engineer at least 24 hours in advance of resuming operations.

108.04--Not Used.

108.05--Limitation of Operations.

The Contractor shall conduct the work in a manner and sequence that will ensure its expeditious completion with the least interference to traffic and shall have due regard for the location of detours and provisions for handling traffic. The Contractor shall not open any work to the prejudice or detriment of work already started. The Engineer may require the Contractor to finish a section of work before work is started on any other section.

108.06--Gratuities.

Gifts, gratuities, or favors shall not be given or offered by the Contractor or its members to personnel of the Department. A gift, gratuity, or favor of any nature whatsoever or offer of such by the Contractor shall be a violation of this provision.

The Contractor shall not employ any personnel of the Department for any services without the prior written consent of the Engineer.

If the Engineer determines that the Contractor or the Contractor's employees, representatives, or agents of any person acting in his behalf have violated this provision, the Contractor and/or its members may, at the discretion of the Engineer, be disqualified from bidding on future contracts with the Department. Any implicated employees, agents, or representatives of the Contractor and/or its members may be prohibited from working on any contract awarded by the Department. The decision of the Engineer shall be binding on all parties. A contractor so disqualified may be reinstated only by petition to and approval by the Chief Engineer.

108.07--Character of Workers, Work Methods, and Equipment.

Workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special or skilled work shall have sufficient experience in such work and in the operation of equipment required to perform it properly and satisfactorily.

Any person employed by the Contractor or any subcontractor who, in the opinion of the Engineer, does not perform his work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the Engineer, be removed forthwith by the Contractor or subcontractor employing the person and shall not be employed again on any portion of the work without the approval of the Engineer. If the Contractor fails to remove the person or furnish suitable and sufficient personnel for proper prosecution of the work, the Engineer may withhold all moneys that are or may become due the Contractor and may suspend the work until the Contractor has complied with the request or order.

Equipment shall be of sufficient size and in such mechanical condition as to meet the requirements of the work and produce a satisfactory quality of work. Equipment shall be such that no damage to the roadway, adjacent property, or other highways will result from its use. The QA Manager shall order the removal and require replacement of unsatisfactory equipment.

When methods and equipment to be used by the Contractor are not prescribed in the Contract, the Contractor is free to use methods or equipment approved by the QA Manager that will accomplish the contract work in conformity with the requirements of the Contract.

When the Contract specifies that construction be performed by the use of particular methods and equipment, they shall be used unless others are authorized by the QA Manager. If the Contractor desires to use a different method or type of equipment, he may request permission from the QA Manager to do so. The request shall be in writing and shall include a full description of the methods and equipment he proposes to use and an explanation of the

reasons for desiring to make the change. If permission is given, it will be on the condition that the Contractor shall be fully responsible for producing construction work in conformity with contract requirements. If, after trial use of the substituted methods or equipment, the QA Manager or the Engineer determines that the work produced does not conform to the requirements of the Contract, the Contractor shall discontinue the use of the substitute method or equipment and shall complete the remaining construction with the specified methods and equipment. The Contractor shall remove any deficient work and replace it with work of the specified quality or take such other corrective action as the QA Manager or the Engineer may direct. No change will be made in the basis of payment for the construction items involved or the contract time limit as the result of authorizing a change in methods or equipment under these provisions.

108.08--Not Used.

108.09--Not Used.

108.10--Not Used.

108.11--Not Used.

108.12--Not Used.

108.13--Not Used.

108.14--Not Used

108.15--Not Used.

SECTION 109--MEASUREMENT AND PAYMENT

109.01--Measurement of Quantities.

[The following section applies only with respect to unit-priced Work.]

Work specified in the Contract will be measured by the QA Manager according to The International System of Units (SI). The methods of measurement and computations to be used to determine quantities of material furnished and work performed will be those generally recognized as conforming to good engineering practice.

Longitudinal measurements for surface computations will be made horizontally, and transverse measurements will be the surface measure shown on the plans or ordered in writing by the QA Manager. Individual utility encroachment areas of 1 square meter or less will not be deducted from surface areas measured for payment.

Structures will be measured according to neat lines shown on the plans.

Items that are measured by the meter will be measured parallel to the base or foundation upon which they are placed.

Allowance will not be made for surfaces placed over a greater area than shown on the plans or for any material moved from outside the area of the cross section and lines shown on the plans.

When standard manufactured items are specified and are identified by weights or dimensions, such identification will be considered nominal. Unless more stringently controlled by tolerances in cited specifications, manufacturing tolerances established by the industries involved will be accepted.

(a) **Measurement by Mass**: Materials that are measured or proportioned by mass shall be weighed on accurate scales. When material is paid for on a metric tonnage basis, personnel performing the massing shall be certified by the QA Manager and shall be bonded to the Commonwealth of Virginia in the amount of $10,000 for the faithful observance and performance of the duties of the weighperson required herein. The bond shall be executed on a form having the exact wording as the Weighpersons Surety Bond Form furnished by the Department and shall be submitted to the Department prior to the furnishing of the metric tonnage material. No payment will be made for materials delivered in excess of the legal load limits established for each truck.

The Contractor shall have the weighperson perform the following:

1. Post and furnish a weekly tare mass of each truck used and keep a record of them for 12 months.

2. Furnish a signed shipping ticket for each load that shows the date, truck number, load number, plant name, size and type of material, project, schedule or purchase order number, and the masses specified herein.

3. Maintain sufficient documentation so that the accumulative metric tonnage and distribution of each lot of material, by contract, can be readily identified.

4. Submit by the end of the next working day a summary of the number of loads and total masses for each type of material by contract.

Trucks used to haul material being paid for by mass shall display the truck uniform identification number and legal gross and legal net mass limits. These markings shall be no less than 50 millimeters high and permanently stenciled on each side of the truck with contrasting color and located as to be clearly visible when the vehicle is positioned on the scales and observed from normal position of the weighperson at the scale house.

Trucks used to haul material shall be equipped with a cover suitable to protect the material and to protect the traveling public.

The truck tare to be used in the massing operation shall be the mass of the empty truck determined with full tank(s) of fuel and the operator seated in the cab. The tare mass of trucks shall be recorded to the nearest 10 kilograms. At the option of the Contractor, a new tare may be determined for each load. When a new tare is obtained for each load, the requirement for full tank(s) of fuel will be waived.

Net rail shipment masses may be used for pay quantities when evidenced by railroad bills of lading. However, such masses will not be accepted for pay quantities of materials that subsequently pass through a stationary mixing plant.

Scales shall conform to the requirements for accuracy and sensitivity as set forth by the *National Institute of Standards and Technology Handbook No. 44 for Specification Tolerances and Requirements for Commercial and Weighing Devices*. Scales used in the massing of materials paid for on a metric tonnage basis shall be approved and sealed in accordance with the requirements of the policies of the Bureau of Weights and Measures of the Department of Agriculture and Consumer Services, or other approved agencies, at least once every six months and upon being moved. Hopper and truck scales shall be serviced and tested by a scale service representative at least once every six months. Hopper scales shall be checked with a minimum 225 kilograms of test weights and truck scales shall be checked with a minimum 9,000 kilograms of test weights.

Copies of scale test reports shall be maintained on file at the scale location for at least 18 months, and copies of all scale service representative test reports shall be maintained by the QA Manager.

The quantity of materials paid for on a metric tonnage basis shall be determined on scales equipped with an automatic printer. Truck scale printers shall print the net mass and either the gross or tare mass of each load. Hopper scale printers shall conform to the requirements of Section 211.11 and shall print the net mass of each load. The shipping ticket shall also show the legal gross mass for material massed on truck scales and the legal net mass for material massed on hopper scales.

If the automatic printer becomes inoperative, the massing operation may continue for 48 hours provided satisfactory visual verification of masses can be made. The written permission of the QA Manager will be required for the operation of scales after 48 hours.

If significant discrepancies are discovered in the printed mass, the ultimate mass for payment will be calculated on volume measurements of the materials in place and unit masses determined by the QA Manager or by other methods deemed appropriate to protect the interests of the State.

(b) **Measurement by Cubic Meter**: Material that is measured by the cubic meter, loose measurement or vehicular measurement, shall be hauled in approved vehicles and measured therein at the point of delivery. Material measured in vehicles, except stream bed gravel, will be allowed at the rate of 2/3 the volume of the vehicle. The full volume of the vehicle will be allowed for stream bed gravel. Such vehicles may be of any size or type acceptable to the QA Manager provided the body is of such shape that the actual contents can be readily and accurately determined. Unless all approved vehicles are of uniform capacity, each vehicle shall bear a plainly legible identification mark indicating the specific approved capacity. Each vehicle shall be loaded to at least its water level capacity.

When approved by the QA Manager in writing, material specified to be measured by the cubic meter may be massed and such masses converted to cubic meters for payment purposes. Factors for conversion from mass to volume measurement will be determined by the QA Manager and shall be agreed to by the Contractor before they are used.

(c) **Measurement by Lump Sum**: When used as an item of payment, the term *lump sum* will mean full payment for completion of work described in the Contract. When a complete structure or structural unit (in effect, lump sum work) is specified as the unit of measurement, the unit will be construed to include necessary fittings and accessories. The quantities may be shown on the plans for items for which lump sum is the method of measurement. If shown, the quantities are approximate and are shown for estimating purposes only. Items that are to be measured as complete units will be counted by the QA Manager in the presence of a representative of the Contractor.

(d) **Specific Items:**

1. **Concrete:** Concrete will be measured and computed by dividing the work into simple geometrical figures and adding their volumes.

2. **Excavation, embankment, and borrow**: In computing volumes of excavation, embankment, and borrow, methods having general acceptance in the engineering profession will be used. When the measurement is based on the cross-sectional area, the average end area method will be used.

3. **Asphalt:** Asphalt will be measured by the liter, volumetric measurement, based on a temperature of 15 °C using the following correction factors:

   a. 0.00063 per degree Celsius for petroleum oils having a specific gravity 15/15 °C above 0.966

   b. 0.00072 per degree Celsius for petroleum oils having a specific gravity 15/15 °C between 0.850 and 0.966

   c. 0.00045 per degree Celsius for emulsified asphalt

   Unless volume correction tables are available, the following formula shall be used in computing the volume of asphalt at temperatures other than 15 °C:

$$V^1 = V/K(T - 15) + 1$$

   where V = volume of asphalt to be corrected; V^1 = volume of asphalt at 15 °C; K = correction factor (coefficient of expansion); and T = temperature in degrees Celsius of asphalt to be corrected.

   When asphalt is delivered by weight, the volume at 15 °C will be determined by dividing the net mass by mass per gallon at 15 °C.

   When specified in the Contract, asphalt will be measured by mass. Net certified scale masses, or masses based on certified volumes in the case of rail shipments, will be used as a basis of measurement, subject to correction when asphalt has been lost from the car or the distributor, disposed of, or otherwise not incorporated in the work.

When asphalt is shipped by truck or transport, net certified masses or volumes subjected to correction for loss or foaming may be used to compute quantities.

Only the quantity of asphalt actually placed in the work and accepted will be considered in determining the amount due the Contractor.

4. **Timber**: Timber will be measured in cubic meters actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.

5. **Equipment rental:** Equipment rental will be measured by time in hours of actual working time and necessary traveling time of the equipment within the limits of the project or source of supply and the project except when another method of measurement is specified.

109.02--Not Used

109.03--Not Used

109.04--Not Used

109.05--Not Used

109.06--Not Used

109.07--Not Used

109.08--Not Used

109.09--Not Used

SECTION 110--MISCELLANEOUS PROVISIONS

110.01--Not Used

110.02--Labor and Wages.

The Contractor shall comply with the provisions and requirements of the State's workers' compensation law and public statutes that regulate hours of employment on public work. Job orders placed with a State Employment Service shall indicate that employment preference will be given to veterans referred for employment. Advertisements in newspapers or other publications for project employees shall include the notation "Employment Preference to Veterans."

110.03--Equal Employment Opportunity.

The Contractor shall comply with the applicable provisions of presidential executive orders and the rules, regulations, and orders of the President's Committee on Equal Employment Opportunity.

Subcontracting: The Contractor shall use best efforts to use minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees in accordance with Appendix 7 of the Contract.

110.04--Not Used

110.05--Construction Safety and Health Standards.

It is a condition of the Contract, and shall be made a condition of each subcontract entered into pursuant to the Contract, that the Contractor and any subcontractor shall not require any worker employed in performance of the Contract to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to their health or safety, as determined under construction safety and health standards promulgated by the U.S. Secretary of Labor in accordance with the requirements of Section 107 of the Contract Work Hours and Safety Standards Act.

The Contractor shall comply with the Virginia Occupational Safety and Health Standards adopted under Section 40.1-22 of the Code of Virginia and the duties imposed under Section 40.1-51.1 of the Code. Any violation of the requirements or duties that is brought to the attention of the Contractor by the QA Manager or any other person shall be immediately abated.

110.06--Bulletin Boards and Posting Official Notices.

Except for maintenance contracts, the Contractor shall furnish, erect, and maintain at least two bulletin boards having dimensions of at least 1,200 millimeters in width and 900 millimeters in height at locations readily accessible to all personnel concerned with the project. The boards shall be erected immediately upon initiation of the contract work and shall be maintained until the completion of such work, at which time they shall be removed from the project. Each bulletin board shall be equipped with a removable glass or plastic cover that when in place will protect posters from weather or damage. The Contractor shall promptly post official notices on the bulletin boards. The costs for such work shall be included in the Contract Price.

110.07--Certification of Nonsegregated Facilities.

The Certification of Nonsegregated Facilities, as required by the May 9, 1967, Order of the Secretary of Labor (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities for highway construction contracts exceeding $10,000 that are not exempt from the provisions of the equal opportunity clause, requires that bidders neither maintain nor provide facilities for employment that are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. If the Contract exceeds $10,000 and is not exempt from the provisions of the equal opportunity clause, the Contractor will be deemed to have signed and agreed to the provisions of the certification. If the Contract exceeds $10,000 and is not exempt from the provisions of the equal opportunity clause, the Contractor shall forward the following notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed $10,000 and are not exempt from the provisions of the equal opportunity clause:

NOTICE TO PROSPECTIVE SUBCONTRACTORS AND MATERIAL SUPPLIERS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES

1. Subcontractors and material suppliers are cautioned as follows: By signing the subcontract or entering into a material supply agreement, the subcontractor or material supplier will be deemed to have signed and agreed to the provisions of the Certification of Nonsegregated Facilities, as required by the May 9, 1967, Order of the Secretary of Labor (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, prior to the award of the subcontract or consummation of a material supply agreement if such subcontract or agreement exceeds $10,000 and is not exempt from the provisions of the equal opportunity clause. This certification provides that the subcontractor or material supplier does not maintain, or provide for his employees, facilities that are segregated on the basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the subcontractor or material supplier will not maintain such segregated facilities.

2. Subcontractors or material suppliers receiving subcontract awards or material supply agreements exceeding $10,000, which are not exempt from the provisions of the equal opportunity clause, will be required to provide for the forwarding of this notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed $10,000 and are not exempt from the provisions of the equal opportunity clause.

EXHIBIT D

COMPLETION GUARANTY

GUARANTY OF PERFORMANCE AND COMPLETION

This Guaranty of Performance and Completion ("Guaranty") is made as of June 3, 1998, jointly and severally by Fluor Corporation, a Delaware corporation, Morrison Knudsen Corporation, a Delaware corporation, and Morrison Knudsen Corporation, an Ohio corporation (each a "Guarantor" and together the "Guarantors"), to the Virginia Department of Transportation, a department of the Commonwealth of Virginia (the "Department") and to the Pocahontas Parkway Association, a Virginia nonstock, nonprofit corporation (the "Association") (individually a "Beneficiary" and together the "Beneficiaries") with respect to the obligations of FD/MK Limited Liability Company, a Delaware limited liability company (the "Contractor") under (1) that certain Comprehensive Agreement to Develop and Operate Route 895 Connector ("Comprehensive Agreement") dated as of June 3, 1998, by and between the Department and Contractor, (2) that certain Design-Build Contract dated as of June 3, 1998 by and between Department and Contractor and (3) that certain Project Financing, Assignment and Assumption Agreement dated as of June 3, 1998 by and between the Contractor, the Pocahontas Parkway Association, a Virginia nonstock, nonprofit corporation (the "Association") and the Department (together, as amended, altered, varied or supplemented, the "Contracts"). The Contracts are hereby incorporated by reference herein. As a condition to entering into the Contracts and approving the Association's issuance of bonds pursuant to a certain Master Indenture of Trust to be entered into between the Association and Crestar Bank, as Trustee (it and its successors in trust being the "Trustee"), the Department has required Guarantors to execute and deliver this Guaranty. The Contractor is an affiliate of each Guarantor. Guarantors acknowledge that financial and direct benefits will accrue to Guarantors by virtue of entering into this Guaranty and that such benefits constitute adequate consideration therefor.

ARTICLE I

GUARANTY

Section 1.01 **Guaranty.** Guarantors hereby jointly and severally guarantee to the Beneficiaries, absolutely, unconditionally and irrevocably, that each and every payment and performance obligation and other liability of the Contractor now or hereafter arising under the Contracts or any of them, including but not limited to all obligations and liabilities of Contractor under any and all representations and warranties made or given by Contractor under the Contracts, under any and all liquidated or stipulated damage provisions of the Contracts and under any and all indemnities given by Contractor under the Contracts (collectively the "Guaranteed Obligations") will be promptly paid and satisfied in full when due and without offset, and performed and completed when required. Notwithstanding the foregoing or any other provision of this Guaranty to the contrary, the Association is entitled to enforce only those Guaranteed Obligations which pertain to (a) obligations of Contractor under the Design-Build Contract of which Association is an intended third party beneficiary, as set forth in Section 28.1 of the Design-Build Contract, or (b) obligations of Contractor under the Project Financing Agreement which are owing directly to the Association.

Section 1.02 **Obligations.** Except as provided in Section 4.07 below, the obligations of the Guarantors hereunder are absolute and unconditional and independent of the Guaranteed Obligations of the Contractor and shall remain in full force and effect until all the Guaranteed Obligations have been paid, performed and completed in full, irrespective of any assignment, amendment, modification or termination of the Contracts.

Section 1.03 **No Exoneration.** The obligations of the Guarantors hereunder shall not be released, discharged, exonerated or impaired in any way by reason of:

(a) any failure of either Beneficiary to retain or preserve any rights against any person;

(b) the lack of prior enforcement by either Beneficiary of any rights against any person and the lack of exhaustion of any bond, letter of credit or other security held by either Beneficiary;

(c) the lack of authority or standing of Contractor or the dissolution of any of the Guarantors, the Contractor, the Department or the Association;

(d) with or without notice to Guarantors, the amendment, alteration, acceleration, extension, waiver, retirement, suspension, surrender, compromise, settlement, release, revocation or termination of, or failure to assert, any portion of the Guaranteed Obligations, the Contracts, any rights or remedies of either Beneficiary (including rights of offset) against Contractor, or any bond, letter of credit, other guaranty, instrument, document, collateral security or other property given or available to either Beneficiary to secure all or any part of the Guaranteed Obligations, provided that the Guarantors shall have available to them the same defenses, if any, to performance of the Guaranteed Obligations that may be available to the Contractor based on any such amendment, alteration, acceleration, extension, waiver, retirement, suspension, surrender, compromise, settlement, release, revocation or termination or failure to assert voluntarily made by the Department (and, with respect to the obligations in favor of the Association described in Section 1.01 above, the Association), except defenses available to the Contractor under any federal or state law respecting bankruptcy, arrangement, reorganization or similar relief of debtors.

(e) the extension of the time for payment of any amount owing or payable under the Contracts or of the time for performance or completion of any Guaranteed Obligation;

(f) the taking or the omission of any of the actions referred to in the Contracts or of any actions under this Guaranty;

(g) the existence now or hereafter of any other guaranty or endorsement by the Guarantors or anyone else of all or any portion of the Guaranteed Obligations;

(h) the acceptance, release, exchange or subordination of additional or substituted security for all or any portion of the Guaranteed Obligations;

(i) the taking of any action or the failure to take any action which would constitute a legal or equitable defense, release or discharge of a surety;.

(j) any bankruptcy, arrangement, reorganization or similar proceeding for relief of debtors under federal or state law hereinafter initiated by or against the Contractor or any of its members, any other guarantor of the Guaranteed Obligations, or either of the Beneficiaries;

(k) any full or partial payment or performance of any Guaranteed Obligation which is required to be returned as a result of or in connection with the insolvency, reorganization or bankruptcy of Contractor or any of its members or otherwise;

(l) the rejection of any Contract in connection with the insolvency, reorganization or bankruptcy of Contractor or any of its members;

(m) an impairment of or limitation on damages due from Contractor by operation or law in any insolvency, reorganization or bankruptcy proceeding by or against Contractor or any of its members;

(n) failure by the Department, Association or Trustee to file or enforce a claim against the estate (either in administration, bankruptcy or other proceedings) of Contractor, any of its members, any Guarantor or any other guarantor;

(o) any merger, consolidation or other reorganization to which the Contractor, the Department, the Association or any Guarantor is a party;

(p) any sale or disposition of all or any portion of any Guarantor's direct or indirect ownership in the Contractor, or any other event which results in discontinuation or interruption in the business relations of Contractor with any Guarantor;

(q) the lack of genuineness, validity, regularity or enforceability of any of the Guaranteed Obligations or the Contracts;

(r) the failure of the Department, the Association or the Trustee to assert any claim or demand, bring any action or exhaust its remedies against the Contractor or any security before proceeding against any Guarantor hereunder; or

(s) termination of any Contract by reason of Contractor's default thereunder.

Section 1.04 <u>Enforcement of Contracts and Guaranteed Obligations</u>.

(a) Nothing contained herein shall prevent or limit the Department or Association from pursuing any of its rights and remedies under the Contracts, or any provisions thereof, according to their respective terms. Each Beneficiary may apply any moneys, property or security available to it in such manner and amounts and at such times to the payment or reduction or performance of any Guaranteed Obligation as the Beneficiary may elect, and may generally deal with Contractor, the Guaranteed Obligations, such security and property as each Beneficiary may see fit. Notwithstanding the foregoing, Guarantors shall remain bound by this Guaranty.

(b) Subject to Section 4.07 below, Guarantors shall be obligated to undertake all curative action which may be agreed upon between the Beneficiary and Contractor. If, following notice under Section 4.07 below, Guarantors do not use their best efforts to proceed promptly to effectuate such curative action within the directed time, or should no agreement on the curative action be reached with the Contractor within 14 days after the Beneficiary notifies the Contractor and Guarantors (under Section 4.07 below) of the need for curative action (or immediately, in the case of emergency conditions), the Beneficiary, without further notice to Guarantors, shall have the right to perform or have performed by third parties the necessary curative action, and the costs thereof shall be borne by Guarantors.

(c) Either Beneficiary may bring and prosecute a separate action or actions against the Guarantors or any of them to enforce their or its liabilities hereunder, regardless of whether any action is brought against the Contractor and regardless of whether any other person is joined in any such action or actions. Nothing shall prohibit either Beneficiary from exercising its rights against any of the Guarantors, the Contractor, any other guarantor of the Guaranteed Obligations, a performance bond or other security, if any, which insures the payment of the Guaranteed Obligations, or any other person simultaneously, or any combination thereof jointly and/or severally.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01 Representations and Warranties. Each Guarantor hereby represents and warrants for itself that:

(a) Consents. Contractor is a limited liability company of which Fluor Daniel, Inc. and Morrison Knudsen Corporation, an Ohio corporation, are the sole members; Fluor Corporation is the ultimate parent company of Fluor Daniel, Inc. and Morrison Knudsen Corporation, a Delaware corporation, is the ultimate parent company of Morrison Knudsen Corporation, an Ohio corporation. Consent of the Contractor to any modification or amendment of the Contracts constitutes knowledge thereof and consent thereto by Guarantors;

(b) Organization and Existence. Each Guarantor is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation;

(c) Power and Authority. Each Guarantor has the full power and authority to execute, deliver and perform this Guaranty, and to own and lease its properties and to carry on its business as now conducted and as contemplated hereby;

(d) Authorization and Enforceability. This Guaranty has been duly authorized, executed and delivered by each Guarantor and constitutes the legal, valid and binding obligation of each Guarantor, enforceable against it in accordance with the terms hereof, subject as to enforceability of remedies to limitations imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the enforcement of creditors' rights generally, as applicable to each Guarantor, and to general principles of equity;

(e) No Governmental Consents. No authorization, consent or approval of, notice to or filing with, any governmental authority, is required for the execution, delivery and performance by the Guarantors of this Guaranty;

(f) No Conflict or Breach. Neither the execution, delivery or performance by the Guarantors of this Guaranty, nor compliance with the terms and provisions hereof, conflicts or will conflict with or will result in a breach or violation of any material terms, conditions, or provisions of any law, governmental rule or regulation or the charter documents, as amended, or bylaws, as amended, of the Guarantors or any order, writ, injunction or decree of any court or governmental authority against any Guarantor or by which it or any of its properties is bound, or any indenture, mortgage or contract or other agreement or instrument to which any Guarantor is a party or by which it or any of its properties is bound, or constitutes or will constitute a default thereunder or will result in the imposition of any lien upon any of its properties;

(g) No Proceedings. There are no suits or proceedings pending, or, to the knowledge of each Guarantor, threatened in any court or before any regulatory commission, board or other governmental administrative agency against any Guarantor which could reasonably be expected to have a material adverse affect on the business or operations of any Guarantor, financial or otherwise, or on its ability to fulfill its obligations hereunder; and

(h) Contracts. The Guarantors are fully aware of and consent to the terms and conditions of the Contracts.

ARTICLE III

WAIVERS, SUBROGATION AND SUBORDINATION

Section 3.01 Waivers.

(a) Guarantors hereby unconditionally waive:

(i) notice of acceptance of this Guaranty or of the intention to act in reliance hereon and of reliance hereon;

(ii) notice of the incurring, contracting, amendment, alteration, acceleration, extension, waiver, retirement, suspension, surrender, compromise, settlement, release, revocation or termination of, or of the failure to assert, any Guaranteed Obligation or any Contract;

(iii) demand on the Guarantors in the event of default;

(iv) any invalidity of the Contracts due to lack of proper authorization of or a defect in execution thereof by Contractor, its purported representatives or agents;

(v) demand for payment or performance, presentment, protest and notice of nonpayment or dishonor respecting any Guaranteed Obligation;

(vi) all other notices to which Guarantors might otherwise be entitled, except notice as set forth in Section 4.07 below;

(vii) any demand for payment hereunder;

(viii) the provisions of Sections 49-25 and 49-26 of the Code of Virginia of 1950, as amended; and

(ix) any duty on the part of either Beneficiary to disclose to Guarantors any facts either Beneficiary may now or hereafter know with regard to Contractor.

(b) Guarantors also hereby waive any right to require, and the benefit of all laws now or hereafter in effect giving the Guarantors the right to require, any prior enforcement as referred to in Section 1.03(b) above, and the Guarantors agree that any delay in enforcing or failure to enforce any such rights or in making demand on any Guarantor for the performance of the obligations of the Guarantors under this Guaranty shall not in any way affect the liability of the Guarantors hereunder.

(c) Guarantors hereby waive, as against the Beneficiaries and any person claiming under either Beneficiary, all rights and benefits which might accrue to the Guarantors by reason of any of bankruptcy, arrangement, reorganization or similar proceedings by or against Contractor and agree that their obligations and liabilities hereunder shall not be affected by any modification, limitation or discharge of the obligations of Contractor that may result from any such proceedings.

(d) Until the Contractor shall have fully and satisfactorily paid, performed, completed and discharged all the Guaranteed Obligations, Guarantors hereby agree not to file, or solicit the filing by others of, any involuntary petition in bankruptcy against Contractor. Guarantors hereby agree not to file, or solicit the filing by others of, any involuntary petition in bankruptcy against the Association at any time.

Section 3.02 Subrogation. Until the Contractor shall have fully and satisfactorily paid, performed, completed and discharged all the Guaranteed Obligations, the Guarantors shall not claim or enforce any right of subrogation, reimbursement or indemnity against the Contractor, or any other right or remedy which might otherwise arise on account of any payment made by any Guarantor or any act or thing done by any Guarantor on account of or in accordance with this Guaranty.

Section 3.03 Subordination.

(a) All existing or future indebtedness of Contractor to any Guarantor is subordinated to all of the Guaranteed Obligations. Whenever and for so long as Contractor shall be in default in the performance or payment of any Guaranteed Obligation, no payments with respect to any such indebtedness shall be made by Contractor to any Guarantor without the prior written notice to the Department.

(b) Each Guarantor shall file all claims against Contractor in any bankruptcy or other proceedings in which the filing of claims is required or permitted by law, upon any obligation or indebtedness of Contractor to such Guarantor, and shall have assigned to the Department (and/or the Association as its interest, if any, may appear) all of such Guarantor's rights thereunder to the extent of outstanding and unsatisfied Guaranteed Obligations. If such Guarantor does not file any such claim, the Department is authorized as such Guarantor's attorney-in-fact to do so in such Guarantor's name; or in the Department's discretion, the Department is authorized to assign the claim to, and cause proof of claim to be filed in the name of, the Department or its nominee (and/or the Association as its interest, if any, may appear) . In all such cases, whether in administration, bankruptcy, or otherwise, the person or persons authorized to pay such claim shall pay to the Department or its nominee (and/or the Association as its interest, if any, may appear) the full amount payable on the claim in the proceeding before making any payment to any Guarantor, and to the full extent necessary for that purpose, each Guarantor assigns to the Department (and the Association as its interest, if any, may appear) all of its rights to any payments or distributions to which it otherwise would be entitled. If the amount so paid is in excess of the Guaranteed Obligations covered hereby, the Department shall pay the amount of the excess to the party determined by it to be entitled thereto.

ARTICLE IV

MISCELLANEOUS

Section 4.01 **Joint and Several Liability.** The obligations and liabilities of each Guarantor hereunder shall be joint and several with the obligations and liabilities of each other Guarantor hereunder and with the obligations and liabilities of any other guarantor of the Guaranteed Obligations.

Section 4.02 **Enforcement of Guaranty.**

(a) The terms and provisions of this Guaranty shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia applicable to contracts executed and to be performed within the Commonwealth of Virginia.

(b) No supplement, amendment, modification, waiver or termination of this Guaranty shall be binding unless (i) executed in writing and duly signed by the Department and Association and (ii) so long as the lien of the Master Indenture is not discharged, approved in writing by the Trustee where such action would materially adversely affect the rights of either Beneficiary under this Guaranty. No waiver of any of the provisions of this Guaranty shall be deemed or shall constitute a waiver of any other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. No failure on the part of either Beneficiary to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise of any other right.

(c) All disputes between either Beneficiary and any Guarantor arising under or relating to this Guaranty or its breach shall be filed, heard and decided in the Circuit Court for the

City of Richmond, Virginia, Division I, which shall have exclusive jurisdiction and venue. Each Guarantor hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of any action or proceedings in such court arising out of or relating to this Guaranty. Each Guarantor agrees that a final non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each Guarantor agrees and consents to service of process by delivery in the manner and to the address set forth in Section 4.03 below. Nothing in this section shall affect the right of either Beneficiary to serve legal process in any other manner permitted by law.

(d) The rights of the Beneficiaries hereunder are cumulative and shall not be exhausted by any one or more exercises of said rights against any or all Guarantors or other guarantors or by any number of successive actions until and unless all Guaranteed Obligations have been fully paid or performed.

(e) The Guarantors shall pay to each Beneficiary all reasonable out-of-pocket legal fees and other reasonable out-of-pocket costs and expenses (including fees and costs on appeal) each Beneficiary incurs by reason of any permitted enforcement by such Beneficiary of its rights hereunder, provided that such Beneficiary is the prevailing party with respect to a substantial portion of its claim.

(f) THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION OR CLAIM WHICH IS BASED ON, OR ARISES OUT OF , UNDER OR IN CONNECTION WITH, THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED BY THIS GUARANTY.

Section 4.03 **Notices.** All notices, demands or other communications under this Guaranty shall be in writing and shall be sent to each other party, at its address specified below (or such other address as a party may from time to time specify to the other parties by notice given in accordance with this Guaranty), and shall be deemed to have been duly given when actually received by the addressee or when served:

(a) personally,

(b) by independent, reputable, overnight commercial courier,

(c) by facsimile transmission:

(i) where the transmitting party includes a cover sheet identifying the name, location and identity of the transmitting party, the phone number of the transmitting device, the date and time of transmission and the number of pages transmitted (including the cover page),

(ii) where the transmitting device or receiving device records verification of receipt and the date and time of transmission receipt and the phone number of the other device, and

(iii) where the facsimile transmission is immediately followed by service of the original of the subject item in the manner provided in subsections (a), (b) or (d), or

(d) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to the Department:

Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219
Attn: Commissioner
Fax: (804) 786-6250

with a copy to:

James F. Hayes, Esq.
Senior Assistant Attorney General
900 E. Main Street
Richmond, Virginia 23219
Fax: (804) 786-9136

If to Association:

Pocahontas Parkway Association
c/o Williams, Mullen, Christian & Dobbins
Two James Center
1021 East Cary Street
Richmond, Virginia 23219
Attn: Ralph L. "Bill" Axselle, Esq.
Fax: (804(783-6507

With a copy to:

R. Hart Lee, Esq.
Williams, Mullen, Christian & Dobbins
Two James Center
1021 East Cary Street
Richmond, Virginia 23219
Fax: (804(783-6507

If to Fluor Corporation:

Fluor Corporation
c/o 100 Fluor Daniel Drive
Greenville, SC 29607-2762
Attn: Ronald W. Oakley

Fax: (864) 281-6868

with a copy to:

Lawrence M. Fisher, Esq.
Fluor Corporation
3333 Michelson Drive
Irvine, CA 92730
Fax: (949) 975-5454

If to Morrison Knudsen Corporation (Delaware):

Morrison Knudsen Corporation (Del.)
720 Park Boulevard
Boise, Idaho 83729
Attn: Mr. Steven Hanks
Fax: 208 386-5220

With a copy to:

Morrison Knudsen Corp. (Del.)
720 Park Boulevard
Boise, Idaho 83729
Attn: Mr. Richard Parry
Fax: 208 386-5220

If to Morrison Knudsen Corporation (Ohio)

Morrison Knudsen Corp. (Ohio)
720 Park Boulevard
Boise, Idaho 83729
Attn: Mr. Darrol Groven
Fax: 208 386-5111

With a copy to:

Morrison Knudsen Corp. (Ohio)
720 Park Boulevard
Boise, Idaho 83729
Attn: Mr. Kevin J. Holderness
Fax: 208 386-5197

Section 4.04 **Severability.** If any provision of this Guaranty shall for any reason be held invalid or unenforceable, to the fullest extent permitted by law, such invalidity or unenforceability shall not affect any other provisions hereof, but this Guaranty shall be construed as if such invalid or unenforceable provision had never been contained herein.

Section 4.05 **Assignment.** Neither this Guaranty nor any of the rights, interest or obligations hereunder shall be assigned or delegated by any Guarantor without the prior written consent of the Beneficiaries. Each Guarantor acknowledges that this Guaranty may be collaterally assigned to the Association and the Trustee in accordance with the terms of the Project Financing Agreement. This Guaranty and all of the provisions hereof shall be binding upon the Guarantors and their respective successors and permitted assigns and shall inure to the benefit of the Beneficiaries and their respective successors and assigns.

Section 4.06 **No Third Party Beneficiaries.** Nothing in this Guaranty shall entitle any person other than the Beneficiaries and their respective successors and assigns to any claim, cause or action, remedy or right of any kind.

Section 4.07 **Certain Rights, Duties, Obligations and Defenses.** Notwithstanding Section 1.02 and 1.03 above, Guarantors shall have all rights, duties, obligations and defenses available to Contractor under the Contracts relating to waiver, surrender, compromise, settlement, release or termination voluntarily made by Department (and, with respect to the obligations in favor of the Association described in Section 1.01 above, the Association); failure to give notice of default to Contractor to the extent required by the Contracts; interpretation or performance of terms and conditions of the Contracts; or other defenses available to Contractor under the Contracts except those expressly waived in this Guaranty and defenses available to the Contractor under any federal or state law respecting bankruptcy, arrangement, reorganization or similar relief of debtors. Action against a Guarantor under this Guaranty shall be subject to no prior notice or demand except for 14 days' prior written notice to such Guarantor setting forth the default or breach of Guaranteed Obligation on the part of the Contractor and demand for payment or performance of such Guaranteed Obligation; provided that immediate action after written notice may be required of Guarantors in the case of emergency conditions.

Section 4.08 **Mergers, etc.** No Guarantor shall, in a single transaction or through a series of related transactions, consolidate with or merge with or into any other person or sell, assign, convey, transfer, lease or otherwise dispose of any material portion of its properties and assets to any person or group of affiliated persons, unless:

(a) in case of a merger, the Guarantor shall be the continuing corporation; or

(b) the person (if other than the Guarantor) formed by such consolidation or into which the Guarantor merges or the person (or group of affiliated persons) that acquires by sale, assignment conveyance, transfer, lease or other disposition a material portion of the properties and assets of the Guarantor shall expressly agree to perform all of the obligations of the Guarantor hereunder, as a joint and several obligor with the Guarantor if the Guarantor continues to exist after such transaction, by a writing in form and substance reasonably satisfactory to the Department.

Notwithstanding the agreement by any such person to perform the obligations of a Guarantor hereunder, such Guarantor shall not be released from its obligations hereunder.

Section 4.09 **Survival.** The obligations and liabilities of Guarantors hereunder shall survive termination of any or all of the Contracts or Contractor's rights thereunder due to default by the Contractor thereunder.

Section 4.10 **Headings.** The Article and Section headings in this Guaranty are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

Section 4.11 **Counterparts.** This Guaranty may be executed in one or more counterparts, all of which shall constitute one and the same instrument.

Section 4.12 **Entire Agreement.** This Guaranty constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. Guarantors agree to execute, have acknowledged and delivered to the Beneficiaries such other and further instruments as may be reasonably required by either Beneficiary to effectuate the intent and purpose hereof.

IN WITNESS WHEREOF, the Guarantors have caused this Guaranty to be executed as of the day and year first above written by their respective duly authorized officers.

FLUOR CORPORATION, a Delaware corporation

RAF

By: Lawrence N. Fisher
Name: Lawrence N. Fisher
Title: Senior Vice President & Secretary

MORRISON KNUDSEN CORPORATION, a Delaware corporation

By: [illegible]
Name: DARROL N. GROVEN
Title: Senior Vice President

MORRISON KNUDSEN CORPORATION, an Ohio corporation

By: Kevin J. Holderness
Name: KEVIN J. HOLDERNESS
Title: ASST. SECRETARY

Receipt of this Guaranty is hereby acknowledged and accepted effective as of the 3rd day of June, 1998.

VIRGINIA DEPARTMENT OF TRANSPORTATION,
a department of the Commonwealth of Virginia

By: _____
David R. Gehr
Commonwealth Transportation Commissioner

POCAHONTAS PARKWAY ASSOCIATION,
a Virginia nonstock, nonprofit corporation

By: _____
Joseph R. Jenkins
President and Treasurer

EXHIBIT E

PROJECT FINANCING AGREEMENT

PROJECT FINANCING, ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS PROJECT FINANCING, ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Agreement"), dated as of June 3, 1998, among **FD/MK LIMITED LIABILITY COMPANY**, a Delaware limited liability company ("FD/MK"), **POCAHONTAS PARKWAY ASSOCIATION**, a Virginia nonstock, nonprofit corporation (the "Association"), and the **VIRGINIA DEPARTMENT OF TRANSPORTATION**, a department of the Commonwealth of Virginia (the "Department"), recites and provides as follows:

RECITALS

WHEREAS, the Department and FD/MK have entered into a Comprehensive Agreement to Develop and Operate Route 895 Connector dated as of June 3, 1998 (as amended, the "Comprehensive Agreement"), pursuant to the Public-Private Transportation Act of 1995 (as amended, the "PPTA"), providing for the design, acquisition, construction, financing, operation and maintenance of the Route 895 Connector as a limited access highway (the "Project");

WHEREAS, the Department and the Contractor have entered into a Design-Build Contract dated as of June 3, 1998 (the "Design-Build Contract") pursuant to which the Contractor has the right and obligation to complete the design and construction of the Project;

WHEREAS, FC, MKC (Delaware) and MKC (Ohio) (collectively, the "Guarantors") have jointly and severally guaranteed to the Department the performance and completion of all of the Contractor's obligations under the Design-Build Contract and certain other agreements in accordance with the provisions of the Guaranty of Performance and Completion made as of June 3, 1998 (the "Completion Guaranty");

WHEREAS, pursuant to Section 6.1(a) of the Comprehensive Agreement, FD/MK and the Association are required to execute and deliver an agreement pursuant to which the Association will agree to assist FD/MK in the implementation of its plan of finance for the Project, including payments due to the Contractor under the Design-Build Contract by, among other things, entering into the Indenture and issuing its Bonds;

WHEREAS, FD/MK and Association have developed a preliminary plan of finance which would allow for the total Costs of the Project (currently estimated to be approximately $403,000,000, including financing costs and required reserves), to be financed from, among other sources, (i) the proceeds of Senior Bonds and First Tier Subordinate Bonds (the "Public Debt") in the approximate aggregate principal amount of $348,000,000; and (ii) loans authorized by the Commonwealth Transportation Board (the "CTB") to be made from the Federal Subaccount of the Toll Facilities Revolving Account (the "SIB Loan") in the maximum principal amount of $18,000,000;

WHEREAS, as a condition to the authorization of the SIB Loan by the CTB and to purchase of the Public Debt by the underwriters, FD/MK has agreed to establish its revolving line of credit in favor of the Association in the maximum amount of $5,000,000 at any one time outstanding on the terms, and subject to the conditions, set forth in the Contractor Loan Agreement between FD/MK and the Association;

WHEREAS, as a condition to interest on the Public Debt being exempt from federal income taxes under applicable laws and regulations, FD/MK is required to irrevocably assign to the Association on the Financial Closing Date all the rights of, and the Association is required to assume on the Financial Closing Date all of the duties and obligations of, FD/MK as the Operator under the Comprehensive Agreement (other than its obligations under the Design-Build Contract and its indemnifications set forth herein) for the period on and after the Transition Date;

WHEREAS, FD/MK and the Association desire to enter into this Agreement for the purposes described in the preceding paragraphs; and

WHEREAS, the Department desires to join in the execution of this Agreement for the purpose of consenting to its provisions and providing the indemnities set forth in Section 6(e) and the assignment set forth in Section 8.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and for other valuable consideration, receipt of which is acknowledged, the parties hereto agree as follows:

Section 1. Definitions. Unless otherwise defined herein, capitalized terms used in this Agreement shall have the meanings given to such terms in Exhibit A attached to the Comprehensive Agreement.

Section 2. Association's Representations and Warranties. The Association hereby makes each of the representations and warranties set forth in Section 15.3 of the Comprehensive Agreement, with the same effect as if such representations and warranties were set forth in this Agreement.

Section 3. Survival of Association's Representations. The representations and warranties of the Association contained in Section 2 above shall survive the expiration or earlier termination of this Agreement and the other Project Agreements.

Section 4. Association's Covenants. The Association covenants and agrees for the benefit of FD/MK and the Department as follows:

(a) on the Financial Closing Date, the Association shall execute and deliver the Master Indenture and the First Supplemental Indenture substantially in the forms attached as Exhibits F and G to the Comprehensive Agreement;

(b) on the Financial Closing Date and upon the satisfaction of the conditions precedent set forth in Section 6.2(e) of the Comprehensive Agreement, the Association shall issue the 1998 Bonds (as defined in the First Supplemental Indenture) in accordance with the provisions of the Master Indenture and First Supplemental Indenture;

(c) on and after the issuance and sale of the 1998 Bonds on the Financial Closing Date, the Association shall pay Costs of the Project in accordance with the provisions of the Indenture and the other Project Agreements as required to finance the design, acquisition and construction of the Project solely from proceeds of the Public Debt and the SIB Loan and any additional Bonds hereafter authorized in accordance with the provisions of the Indenture;

(d) the Association shall provide in the Indenture for requisitions signed by FD/MK and approved by the Department in accordance with the Design-Build Contract to be submitted to and paid by the Trustee in accordance with the provisions of the Indenture, without necessity for Association approval thereof; and

(e) on and after (but not before) the Transition Date, the Association shall comply with and perform all of the on-going duties of an "operator" under the PPTA with respect to the Project and all of the covenants and duties of the Operator under the Comprehensive Agreement and the other Project Agreements to which the Operator is a party (but not under the Design-Build Contract and excepting FD/MK's indemnity obligations) including without limitation the obligations of the Operator to cause the management, operation and maintenance of the Project as provided in Article VIII of the Comprehensive Agreement (subject, however, to the Department's obligations as delegatee under Section 8.3 thereof) and Article IX of the Comprehensive Agreement.

Section 5. Assignment by FD/MK and Assumption by Association.

(a) FD/MK hereby irrevocably assigns and transfers to the Association for the period on and after the Transition Date, without the necessity of further action by any of the parties, all of FD/MK's right, title and interest in, to and under the Comprehensive Agreement (but not the Design-Build Contract), including without limitation FD/MK's rights and duties as Operator (but not FD/MK's indemnity obligations) and, effective as of the Transition Date, FD/MK shall be relieved of all further obligations, duties and liabilities under the Comprehensive Agreement (but not the Design-Build Contract and excepting its indemnity obligations) first arising from and after the Transition Date; and

(b) The Association hereby irrevocably accepts the foregoing assignment of FD/MK's right, title and interest as Operator under the Comprehensive Agreement and irrevocably assumes the duties and obligations of the Operator under the Comprehensive Agreement (but not the Design-Build Contract and excepting FD/MK's indemnity obligations) first arising from and after the Transition Date without the necessity of further action by any of the parties.

(c) None of FD/MK's rights, obligations, duties and liabilities arising prior to the Transition Date, including without limitation those arising under the Design-Build Contract and FD/MK's indemnity obligations, are assigned or assumed.

(d) At any time after the Transition Date FD/MK and Association shall, upon Department's written request, execute and acknowledge a recordable notice in form satisfactory to the Department, that the Transition Date has occurred. The Department may record such notice in the land records of Henrico and Chesterfield Counties and the City of Richmond. FD/MK's obligation under this subsection (d) shall survive the Transition Date.

Section 6. Indemnification.

(a) From FD/MK to Association. FD/MK shall indemnify, protect, defend and hold harmless each Association Indemnitee from and against all Claims as to clause (B) below and against all third party Claims other than those brought by the Trustee, the Owners of Bonds or any other party to the Project Agreements with respect to clause (A) below, including without limitation:

(i) all amounts paid in settlement of any litigation commenced or threatened against any Association Indemnitee if such settlement is effected with the consent of FD/MK or upon order of the court;

(ii) all expenses reasonably incurred in the investigation of, preparation for or defense of any litigation, proceeding or investigation of any nature whatsoever, commenced or threatened against FD/MK, the Project or any Association Indemnitee;

(iii) any judgments, penalties, fines, damages, assessments, indemnities or contributions; and

(iv) the reasonable fees of attorneys, auditors, and consultants;

provided that such Claims arise out of:

(A) any failure by FD/MK or its members, managers, directors, officers, employees or agents to perform any of its agreements, covenants and obligations, or to comply with any conditions or prohibitions binding on FD/MK, set forth in the Comprehensive Agreement, the Design-Build Contract, this Agreement or any other Project Agreement to which FD/MK is a party; or

(B) any falsity of any representation, warranty, statement or disclosure of FD/MK in or under the Comprehensive Agreement, the Indenture, this Agreement, any other Project Agreement to which FD/MK is a party, any certificate delivered pursuant thereto or any preliminary official statement or official statement issued in connection with the offering of the 1998 Bonds.

(b) From Association to FD/MK. The Association shall indemnify protect, defend and hold harmless each FD/MK Indemnitee from and against all Claims as to clause (B) below and against all third party Claims other than those brought by the Trustee, the Owners of the Bonds or any party to the Project Agreements with respect to clause (A) below, including without limitation:

(i) all amounts paid in settlement of any litigation commenced or threatened against any FD/MK Indemnitee if such settlement is effected with the consent of the Association or upon order of the court;

(ii) all expenses reasonably incurred in the investigation of, preparation for or defense of any litigation, proceeding or investigation of any nature whatsoever, commenced or threatened against the Association, the Project or any FD/MK Indemnitee;

(iii) any judgments, penalties, fines, damages, assessments, indemnities or contributions; and

(iv) the reasonable fees of attorneys, auditors, and consultants;

provided that such Claims arise out of:

(A) any failure by the Association or its directors, officers, employees or agents to perform any of its agreements, covenants and obligations, or to comply with any conditions or prohibitions binding on Association, set forth in the Comprehensive Agreement, the Indenture, this Agreement or any other Project Agreement to which Association is a party, except for obligations expressly delegated to Department under Section 8.3 of the Comprehensive Agreement; or

(B) any falsity of any representation, warranty, statement or disclosure of Association in or under the Comprehensive Agreement, the Indenture, this Agreement, any other Project Agreement to which Association is a party, any certificate delivered pursuant thereto or any preliminary official statement or official statement issued in connection with the offering of the 1998 Bonds.

(c) From FD/MK to Department. In addition to FD/MK's indemnities set forth in the Design-Build Contract, FD/MK shall indemnify, protect, defend and hold harmless each State Indemnitee from and against any and all Claims, including without limitation:

(i) all amounts paid in settlement of any litigation commenced or threatened against any State Indemnitee if such settlement is effected with the consent of FD/MK or upon order of the court;

(ii) all expenses reasonably incurred in the investigation of, preparation for or defense of any litigation, proceeding or investigation of any nature whatsoever, commenced or threatened against FD/MK, the Project or any State Indemnitee;

(iii) any judgments, penalties, fines, damages, assessments, indemnities or contributions; and

(iv) the reasonable fees of attorneys, auditors, and consultants;

provided that such Claims arise out of:

(A) any fraud or deceit of FD/MK, FC, MKC (Ohio), or MKC (Delaware), or any director, member, manager, officer, employee or agent of FD/MK, FC, MKC (Ohio) or MKC (Delaware); or

(B) any breach or falsity of any representation, warranty, statement or disclosure of FD/MK, FC, MKC (Ohio) or MKC (Delaware) in or under the Comprehensive Agreement, this Agreement, any other Project Agreement to which FD/MK, FC, MKC (Ohio) or MKC (Delaware) is a party, except the Design-Build Contract, any certificate delivered pursuant thereto or any preliminary official statement or official statement issued in connection with the offering of the 1998 Bonds.

(d) From Association to Department. The Association shall indemnify, protect, defend and hold harmless each State Indemnitee from and against all Claims, including without limitation:

(i) all amounts paid in settlement of any litigation commenced or threatened against any State Indemnitee if such settlement is effected with the consent of the Association or upon order of the court;

(ii) all expenses reasonably incurred in the investigation of, preparation for or defense of any litigation, proceeding or investigation of any nature whatsoever, commenced or threatened against the Association, the Project or any State Indemnitee;

(iii) any judgments, penalties, fines, damages, assessments, indemnities or contributions; and

(iv) the reasonable fees of attorneys, auditors, and consultants;

provided that such Claims arise out of:

(A) any failure by the Association or its directors, officers, employees or agents to perform any of its agreements, covenants and obligations, or to comply with any conditions or prohibitions binding on Association, set forth in the Comprehensive Agreement (from and after the Transition Date), the Indenture, this Agreement, any other Project Agreement to which Association is a party, except for obligations expressly delegated to Department under Section 8.3 of the Comprehensive Agreement;

(B) any breach or falsity of any representation, warranty, statement or disclosure of the Association in or under the Comprehensive Agreement, the Indenture, this

Agreement, any other Project Agreement to which Association is a party, any certificate delivered pursuant thereto or any preliminary official statement or official statement issued in connection with the offering of the 1998 Bonds; or

(C) any negligent act or omission of any Association Party, but only with respect to a matter for which the Association bears responsibility under a Project Agreement which is not delegated to the Department under Section 8.3 of the Comprehensive Agreement.

(e) From Department to FD/MK and Association. To the extent permitted by law, Department shall indemnify, protect, defend and hold harmless each FD/MK Indemnitee and each Association Indemnitee from and against any and all Claims, including without limitation:

(i) all amounts paid in settlement of any litigation commenced or threatened against any FD/MK Indemnitee or Association Indemnitee if such settlement is effected with the consent of the Department or upon order of the court;

(ii) all expenses reasonably incurred in the investigation of, preparation for or defense of any litigation, proceeding or investigation of any nature whatsoever, commenced or threatened against the Department, the Project, any FD/MK Indemnitee or any Association Indemnitee ;

(iii) any judgments, penalties, fines, damages, assessments, indemnities or contributions; and

(iv) the reasonable fees of attorneys, auditors, and consultants;

provided that such Claims arise out of:

(A) any fraud or deceit of the Department or any official, employee or agent of the Department; or

(B) any breach or falsity of any representation, warranty, statement or disclosure of the Department in or under the Comprehensive Agreement, this Agreement, any other Project Agreement to which the Department is a party, except the Design-Build Contract, any certificate delivered pursuant thereto or any preliminary official statement or official statement issued in connection with the offering of the 1998 Bonds.

(f) Defense and Indemnification Procedures.

(i) If an Association Indemnitee, FD/MK Indemnitee or State Indemnitee (each an "Indemnified Party") receives notice of or otherwise has actual knowledge of Claims which it believes is within the scope of indemnification owed to it under this Section 6 by another party ("Indemnifying Party"), it shall by writing as soon as practicable (A) inform the Indemnifying Party of such Claim; (B) send to Indemnifying Party a copy of all written materials the Indemnified Party has received asserting such Claims and (C) notify Indemnifying Party that

either (1) the defense of such Claims is being tendered to the Indemnifying Party or (2) the Indemnified Party has elected to conduct its own defense for a reason set forth in subsection (f)(v) below.

(ii) If the insurer under any applicable insurance policy accepts tender of defense, the Indemnifying Party and the Indemnified Party shall cooperate in the defense as required by the insurance policy. If no defense is provided by insurers under potentially applicable insurance policies, then subsections (f)(iii), (iv), (v) and (vi) below shall apply.

(iii) If the defense is tendered to the Indemnifying Party, it shall within 45 Days of said tender deliver to the Indemnified Party a written notice stating that the Indemnifying Party (A) accepts the tender of defense and confirms that the Claims are subject to full indemnification hereunder without any "reservation of rights" to deny or disclaim full indemnification thereafter, (B) accepts the tender of defense but with a "reservation of rights" in whole or in part or (C) rejects the tender of defense if it reasonably determines it is not required to indemnify against the Claims under this Section 6. If such notice is not delivered within such 45 Days, the tender of defense shall be deemed rejected.

(iv) If the Indemnified Party gives notice under subsection (f)(i)(C)(1) above, the Indemnifying Party shall have the right to select legal counsel for the Indemnified Party, subject in the case of a State Indemnitee to reasonable approval of the State Attorney General, and the Indemnifying Party shall otherwise control the defense of such Claims, including settlement, and bear the fees and costs of defending and settling such Claims. During such defense: (A) the Indemnifying Party shall at the Indemnifying Party's expense, fully and regularly inform the Indemnified Party of the progress of the defense and of any settlement discussions; and (B) the Indemnified Party shall, at the Indemnifying Party's expense, fully cooperate in said defense, provide to the Indemnifying Party 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 the Indemnifying Party concerning such defense.

(v) Indemnified Party shall be entitled to select its own legal counsel and otherwise control the defense of such Claims if: (A) the defense is tendered to the Indemnifying Party and it refuses the tender of defense, or fails to accept such tender within 45 Days, or reserves any right to deny or disclaim such full indemnification thereafter; or (B) Indemnified Party, at the time it gives notice of the Claims or at any time thereafter, reasonably determines that (1) a conflict exists between it and the Indemnifying Party which prevents or potentially prevents the Indemnifying Party from presenting a full and effective defense, (2) the Indemnifying Party is otherwise not providing an effective defense in connection with the Claims or (3) the Indemnifying Party lacks the financial capacity to satisfy potential liability or to provide an effective defense. Indemnified Party may assume its own defense pursuant to this subsection (f)(v) by delivering to the Indemnifying Party written notice of such election and the reasons therefor. A refusal of, or failure to accept, a tender of defense may be treated by Indemnified Party as Claims against the Indemnifying Party.

(vi) If Indemnified Party is entitled and elects to conduct its own defense pursuant hereto, all reasonable costs and expenses it incurs in investigating and defending Claims for which it is entitled to indemnification hereunder shall be reimbursed by the Indemnifying Party on a current basis. In the event the Indemnified Party is entitled to and elects to conduct its own defense, then it shall have the right to settle or compromise the Claims with the Indemnifying Party's prior written consent, which shall not be unreasonably withheld or delayed, or with approval of the court, and with the full benefit of the Indemnifying Party's indemnity.

(h) The indemnities by FD/MK, Association and Department shall survive the expiration or earlier termination of this Agreement and the other Project Agreements, the assignment and assumption set forth in Section 5 above and the release set forth in Section 20.1(b) of the Comprehensive Agreement.

Section 7. Project Promotion Prior to Opening Date.

(a) Association shall include in its Annual Budget for a reasonable period prior to the Opening Date amounts for promoting, marketing and advertising the Project and its opening to the public. The Association shall not budget or expend for such purposes any amount in excess of amounts reserved for such purposes under the SIB Loan Agreement, unless the Department approves in writing a greater amount.

(b) Prior to the commencement of revenue operations at the Project, the Association shall actively promote, market and advertise the Project for the purpose of increasing the use thereof and optimizing Toll Revenues therefrom; provided that Association's expenditures for such purpose shall conform to the amount budgeted for such purpose as shown in the approved Annual Budget.

(c) Subject to the Department's prior written approval, the Association may engage a professional marketing and advertising firm to assist with planning and implementation of the promotion, marketing and advertising for the Project prior to commencement of revenue operations.

Section 8. Assignments by Department.

(a) The Department hereby irrevocably and absolutely assigns to the Association all right to Liquidated Damages which may be payable by FD/MK under Section 25.6.1.2 of the Design-Build Contract.

(b) To secure the due and punctual payment and performance of all the Association's obligations under the Indenture, the Department hereby assigns and pledges to the Association, effective on and as of the Financial Closing Date, for the benefit of the Trustee and the Owners of the Bonds (and creates and grants a security interest in favor of the Association for the benefit of the Trustee and the Owners of the Bonds) all of the Department's, right, title and interest in, to and under the Design-Build Contract and the Completion Guaranty. The

Department acknowledges that the Association will assign the interest in the Design-Build Contract and the Completion Guaranty assigned hereby to it by the Department to the Trustee under the Indenture. Upon payment in full of the Bonds or provision for payment of the Bonds in accordance with Section 802 of the Indenture, the Association and Trustee agree, at the request of the Department, to release the assignment and security interest created by the assignment set forth in this Section 8 and under the Indenture.

Section 9. Trustee Right to Cure Department Defaults. FD/MK agrees that the Trustee, as assignee of the Association, shall have the right to cure or remedy, or cause to be cured or remedied, any material default under or breach of the Design-Build Contract by the Department at any time within 45 days, plus the grace period applicable to such default or breach under the Design-Build Contract, subject to the following conditions:

(a) Trustee shall have first delivered to Department written notice of its determination that the Department has materially defaulted or breached its obligations under the Design-Build Contract and setting forth in reasonable detail the default or breach and Trustee's intention to exercise cure rights under this Section 9;

(b) Trustee has given the Department a period of 15 days after receipt of such notice to meet with the Trustee to discuss the claim of default or breach and what appropriate actions the Department should take to remedy the same; and

(c) Trustee has given the Department 30 days after such meeting or after expiration, without meeting, of such 15-day period, or after such longer period as may be reasonably required under the circumstances or available to Department under the Design-Build Contract, to cure the default or breach and Department nevertheless has failed to cure.

Section 10. Trustee Right to Enforce FD/MK and Guarantor Obligations.

(a) The Trustee, as assignee of the Association, shall have the right, in substitution of the Department, to enforce Department's rights and remedies against FD/MK under the Design-Build Contract and against the Guarantors under the Completion Guaranty, if and only if:

(i) Trustee shall have first delivered to Department written notice of its determination that there has been a continued, persistent and material failure by the Department to enforce its rights and remedies as aforesaid and setting forth in reasonable detail such failure and Trustee's intention to exercise enforcement rights under this Section 10;

(ii) Trustee has given the Department a period of 15 days after receipt of such notice to meet with the Trustee to discuss the claim of failure and what appropriate actions the Department should take to enforce its rights and remedies; and

(iii) Trustee has given the Department 30 days after such meeting or after expiration, without meeting, of such 15-day period, or after such longer period as may be

reasonably required under the circumstances, to enforce its rights and remedies and Department nevertheless has failed to do so.

(b) Notwithstanding the foregoing, neither the Association nor the Trustee shall have any right to intervene by reason of, or to object to or disapprove, any decision by the Department respecting the manner and timing of enforcement, forbearance from enforcement, or the waiver, modification, compromise or settlement of, any of its rights, powers or remedies under the Design-Build Contract or the Completion Guaranty whenever such decision is made in the exercise of good faith, and prudent judgment, and even though such decision may directly or indirectly result in extension of the Guaranteed Completion Date, increase in amounts owing to FD/MK or lack of balance of the financing for the Project.

Section 11. Consents and Agreements of FD/MK.

(a) FD/MK hereby consents to:

(i) the pledge and grant of a security interest to the Association and the Association's pledge and grant of its security interest to Trustee set forth in Section 8 above; and

(ii) the exercise by the Trustee of any or all of its rights granted in Sections 9 and 10 above, including but not limited to the right of the Trustee, in its own name or the name of the Department, to perform the obligations of and cure defaults by the Department under the Design-Build Contract or to enforce directly the terms of the Design-Build Contract against FD/MK and the Completion Guaranty against the Guarantors.

(b) FD/MK agrees that it will deliver to the Trustee copies of all notices of material default or breach of obligations under the Design-Build Contract by the Department concurrently with the delivery thereof to the Department.

Section 12. No Assumption by Association or Trustee. FD/MK and the Department each agree that unless and until FD/MK receives a written assumption from the Association or Trustee, neither the Association nor Trustee shall be deemed by virtue of the execution and delivery of this Agreement or any action taken hereunder to have assumed any of the obligations of the Department under the Design-Build Contact; nor shall the Association or Trustee incur any liability of any kind to the Contractor under the Design-Build Contract.

Section 13. Limitations on Association and Trustee's Rights. Nothing in this Agreement creates in favor of the Association or Trustee any rights, powers or remedies in addition to or greater than those available to the Department under the express provisions of the Design-Build Contract and the Completion Guaranty. Nothing in this Agreement shall obligate FD/MK or the Guarantors, to the extent FD/MK or the Guarantors have duly performed their respective obligations under the Design-Build Contract or the Completion Guaranty, to perform such obligations more than once.

Section 14. No Release. The assignments set forth in Section 8 hereof shall not be deemed to release or to affect in any way the obligations of the Department or FD/MK under the Design-Build Contact or the Guarantors under the Completion Guaranty.

Section 15. Notices. Notices given at any time under this Agreement shall be effective when given in accordance with the provisions of Section 20.3 of the Comprehensive Agreement.

Section 16. Assignment. This Agreement shall not be assignable or transferable by any party hereto without the consent of the other parties; provided that the Association may assign its rights hereunder to the Trustee as part of the Trust Estate for the benefit of the Owners of Bonds.

Section 17. Binding Effect. Subject to the limitations set forth in Section 16 above, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

Section 18. No Third Party Beneficiaries. Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligation of any of the parties to, any person or entity that is not a party to this Agreement except those rights expressly assigned by the Association to the Trustee for the benefit of the Owners of Bonds.

Section 19. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia applicable to contracts executed and to be performed within Virginia. Venue for any legal action arising out of this Agreement shall lie in the Circuit Court of the City of Richmond, Virginia, Division I.

Section 20. Counterparts. This Agreement 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 agreement.

Section 21. Amendments. This Agreement shall not be modified, amended, canceled or revoked without the prior written consent of FD/MK, the Association, the Department and, until the Indenture has been discharged in accordance with its terms, the Trustee.

Section 22. Association Acknowledgment. The Association hereby represents and acknowledges that it has read and understands all the provisions of this Agreement and the Project Agreements, has received independent advice of legal counsel concerning the meaning and intent thereof and the rights, obligations, risks and liabilities of Association and its officers and directors thereunder, and is entering into this Agreement and the other Project Agreements to which it is a party in reliance solely on its review thereof and the advice of its legal counsel.

Section 23. Limitation on Association Liability. The obligations of the Association under this Agreement are limited obligations, payable solely from the assets of the Association; and recourse against the Association shall be limited to such assets. In no event shall any of the Association's directors, officers, agents, employees or representatives be personally responsible

for performing or paying any obligations of the Association hereunder, and no recourse shall be had against any of the Association's directors, officers, agents, employees or representatives except as a result of his or her fraud, intentional misrepresentation, willful misconduct or knowing violation of criminal law.

Section 24. Consent of Department. The Department joins in the execution of this Agreement for the purpose of consenting to its terms and providing the indemnities set forth in Section 7(e) and the assignment set forth in Section 8.

Section 25. Entire Agreement. This Agreement and the other Project Agreements together constitute the entire and exclusive agreement between the parties relating to the specific matters covered herein and therein. All prior or contemporaneous verbal or written agreements, understandings, representations and/or practices relative to the foregoing are hereby superseded, revoked and rendered ineffective for any purpose.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives as of the date first written above.

FD/MK LIMITED LIABILITY COMPANY

By: _____
James R. Carroll, President

POCAHONTAS PARKWAY ASSOCIATION

By: _____
Joseph R. Jenkins, President

VIRGINIA DEPARTMENT OF TRANSPORTATION

By: _____
David R. Gehr, Commonwealth Transportation Commissioner

Fiscal Review:

By: _____
Gregory A. Whirley, Sr.
Controller

Legal Review:

By: _____
James F. Hayes, Esquire
Senior Assistant Attorney General

Acknowledged and agreed to this _____day of June, 1998:

CRESTAR BANK, a Virginia banking corporation, as Trustee

By:_____
Name: K. A. Pickerel
Title: Vice President

EXHIBIT H

SIB LOAN AGREEMENT

SIB LOAN AGREEMENT

This **SIB LOAN AGREEMENT** (the "Agreement") is made and entered into as of June 3, 1998, by and among the **COMMONWEALTH TRANSPORTATION BOARD**, a state board of the Commonwealth of Virginia affiliated with the Department of Transportation (the "CTB"), whose address is 1401 East Broad Street, Richmond, Virginia 23219, and **POCAHONTAS PARKWAY ASSOCIATION**, a Virginia non-stock, nonprofit corporation (the "Association"), whose address is c/o Williams, Mullen, Christian & Dobbins, Two James Center, 1021 East Cary Street, Richmond, Virginia 23219.

WITNESSETH:

WHEREAS, on March 25, 1995, the Governor of the State signed into law, effective July 1, 1995, the Public-Private Transportation Act (as amended, the "PPTA"); and

WHEREAS, in enacting the PPTA, the State General Assembly found and declared, among other things, that:

(i) There is a public need for timely acquisition or construction of and improvements to transportation facilities within the State that are compatible with state and local transportation plans;

(ii) Such public need may not be wholly satisfied by existing ways in which transportation facilities are acquired, constructed or improved; and

(iii) Authorizing private entities to acquire, construct, improve, maintain, and/or operate one or more transportation facilities may result in the availability of such transportation facilities to the public in a more timely or less costly fashion, thereby serving the public safety and welfare; and

WHEREAS, the PPTA grants the Virginia Department of Transportation (the "Department") the authority to allow private entities to construct and/or operate qualifying transportation facilities if the Department determines there is a need for the facilities and private involvement would provide the facilities to the public in a timely and cost-effective fashion; and

WHEREAS, the CTB is authorized by Code of Virginia § 33.1-23.03:4 to make allocations from funds in the Toll Facilities Revolving Account of the Transportation Trust Fund to make a loan to a private operator to pay any cost of a qualifying transportation facility pursuant to the terms of a comprehensive agreement entered into under the PPTA between a responsible public entity and a private operator; and

WHEREAS, on September 27, 1996, the CTB, the Department, the Federal Highway Administration and the Federal Transit Administration entered into a Cooperative Agreement providing for the establishment of the Toll Facilities Revolving Account as a State Infrastructure Bank ("SIB") pursuant to section 350 of the National Highway System Designation Act of 1995 ("NHS Act"), Public Law 104-59, 23 U.S.C. § 101 note, dedicated solely to

providing loans and other forms of financial assistance consistent with the NHS Act and as permitted under State law; and

WHEREAS, pursuant to the PPTA, the Department and FD/MK Limited Liability Company ("FD/MK") have entered into a Comprehensive Agreement to Develop and Operate Route 895 Connector dated as of June 3, 1998 (as amended, the "Comprehensive Agreement"), providing for the design, acquisition, construction, financing, operation and maintenance of the Route 895 Connector as a limited access highway (the "Project"); and

WHEREAS, pursuant to Section 6.1(a) of the Comprehensive Agreement, FD/MK and the Association concurrently herewith have executed a Project Financing, Assignment and Assumption Agreement (the "Project Financing Agreement") pursuant to which the Association has agreed to assist FD/MK in the financing of the Project by, among other things, entering into the Indenture (defined hereinafter) pursuant to which the Association will issue bonds and other obligations payable from revenues of the Project; and

WHEREAS, under the Project Financing Agreement, FD/MK has assigned to the Association all the rights of, and the Association has assumed, all of the duties and obligations of, FD/MK as the Operator under the Comprehensive Agreement for the period on and after the Transition Date; and

WHEREAS, on the Financial Closing Date, the Association and Crestar Bank, a Virginia banking corporation, as trustee (the "Trustee") will execute and deliver a Master Indenture of Trust and First Supplemental Indenture of Trust (collectively, the "Indenture"), pursuant to which the Association will issue approximately $315,000,000 aggregate principal amount of its Series 1998 A and B Senior Bonds, and approximately $33,000,000 aggregate principal amount of its Series 1998 C First Tier Subordinate Bonds for the purpose of financing part of the costs of the Project; and

WHEREAS, to assist in financing certain costs of the Project, the CTB shall authorize a loan to be made from the Federal Subaccount in the Toll Facilities Revolving Account in the maximum principal amount of $18,000,000, of which up to $1,500,000 may be drawn prior to the Financial Closing Date and the remainder up to the amount indicated in the financial plan or financial proformas set forth in the Official Statement issued in connection with the offering of the Series 1998A Senior Bonds may be drawn on and after the Financial Closing Date, subject to the terms of this Agreement and the Indenture.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto DO HEREBY AGREE as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. All capitalized, undefined terms used herein shall have the same meanings as used in Exhibit A hereto.

Section 1.2 Rules of Interpretation.

(a) 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.

(b) 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. 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 stated otherwise, all references to Articles and Sections refer to the Articles and Sections set forth in this Agreement. Unless otherwise stated in this Agreement or the other Project Agreements, words which have well-known technical or construction industry meanings are used in this Agreement or the other Project Agreements in accordance with such recognized meaning. All references to a subsection "above" or "below" refer to the denoted subsection within the Section in which the reference appears.

(c) 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.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of the Association. The Association represents and warrants to the CTB that each of the representations and warranties of the Association set forth in Section 15.3 of the Comprehensive Agreement are true and correct on and as of the date hereof.

ARTICLE III

SIB LOAN

Section 3.1 SIB Loan. The CTB hereby agrees, upon the terms and conditions contained in this Agreement and the Indenture, to authorize a loan (the "SIB Loan") to be made to the Association from funds deposited in the Federal Subaccount of the Toll Facilities Revolving Account in the Transportation Trust Fund in the maximum principal amount of $18,000,000 for purposes of paying certain costs of the Project described in Section 3.3. Prior to the Financial Closing Date an amount not to exceed $1,500,000 (the "Initial SIB Loan") may be drawn to finance the cost of design work incurred under the Design-Build Contract. The Initial SIB Loan shall be evidenced by a Note in the form attached as Exhibit B, and interest shall accrue on the amount of any advance of the Initial SIB Loan from the date of such advance at the Transportation Trust Fund Earnings Rate, compounded semiannually. On the Financing Closing Date, the Note shall be exchanged for a Series 1998D Second Tier Subordinate Bond (the "SIB Bond") issued by the Association and authenticated by the Trustee under the Indenture. Subject to Section 3.4(b), on the Financial Closing Date an amount equal to the remaining undrawn amount of the SIB Loan shall be transferred to the Trustee for deposit in the Series 1998D Bond Proceeds Account of the Construction Fund. On and after the Financial Closing Date, an advance of the SIB Loan (other than advances of the Initial SIB Loan) shall be deemed to be made, and interest on such advance shall accrue from the date of any disbursement from the Series 1998D Bond Proceeds Account. The SIB Bond shall have a final maturity not later than December 31, 2028, and shall bear interest at the Transportation Trust Fund Earnings Rate, compounded semiannually.

Section 3.2 Repayment. The principal of the SIB Bond and accrued interest thereon shall, upon the election of the Department made pursuant to Subsection 4 of Section 503 of the Indenture, be subject to mandatory prepayment from funds transferred to the Department Capital Cost Savings Account pursuant to subsections 4 and 6 of Section 503 of the Indenture. The remaining principal amount of the SIB Bond and accrued interest thereon shall be payable from the Revenues of the Project, to the extent available, in the order of priority described in Section 505 of the Indenture for Second Tier Subordinate Bonds. Repayment shall commence not later than five (5) years after the Final Acceptance Date.

Section 3.3 Use of Proceeds. Proceeds of the SIB Loan shall only be used for payment of costs of (1) right-of-way acquisition and relocation, (2) utility relocation, (3) preliminary design and engineering, (4) costs of promoting, marketing and advertising the Project and its opening to the public incurred prior to the commencement of revenue operations or (5) any other costs approved by the Department that will not cause the Project to be subject to requirements applicable to Federal - aid construction contracts under U.S.C. Title 23. There shall be reserved from the proceeds of the SIB Loan and maintained in a subaccount under the Indenture the sum of $400,000 to be used solely for the costs described under clause (4) above, except to the extent the Department in its sole discretion may authorize in writing use of any of such reserved amount for other costs described above.

Section 3.4 Conditions Precedent to Disbursement of Loan Proceeds.

(a) CTB shall have no obligation to authorize any disbursement of proceeds of the Initial SIB Loan unless FD/MK shall have satisfied all the conditions precedent and requirements for draws set forth in Sections 3.1 and 14.2 of the Design-Build Contract.

(b) The CTB shall have no obligation to transfer proceeds of the SIB Loan to the Trustee on the Financial Closing Date unless the following conditions have been satisfied on or before the Financial Closing Date:

(i) Association shall have issued the Series 1998A and B Senior Bonds and the Series 1998C First Tier Subordinate Bonds the proceeds of which, together with other moneys available to Association are sufficient to pay all costs of financing, planning, design, construction and testing of the Project as determined in accordance with Section 6.2(e)(i) of the Comprehensive Agreement;

(ii) all conditions precedent to the first advance of proceeds of the Bonds set forth in the Indenture shall have been satisfied;

(iii) FD/MK shall have satisfied all the conditions set forth in Sections 6.2(e) of the Comprehensive Agreement;

(iv) all representations and warranties of Association set forth in this Agreement and the Comprehensive Agreement shall be true and correct on the Financial Closing Date as if made on such date;

(v) Association shall have delivered to the CTB, in form and substance reasonably satisfactory to the CTB's counsel, written opinions of counsel to Association, dated the Financial Closing Date, as to matters set forth in Section 15.3 of the Comprehensive Agreement, together with letters addressed to the CTB from such counsel that the CTB may rely on all opinions delivered by them to any party other than the CTB in connection with the issuance of Bonds under the Indenture;

(vi) Each of FD/MK and Association shall have delivered to the CTB, in form and substance reasonably satisfactory thereto, a copy of resolutions and other authorizations, certified by the appropriate officers of FD/MK and Association, respectively, as being in full force and effect on the Financial Closing Date, authorizing the execution, delivery and performance of this Agreement, the Comprehensive Agreement and all other Project Agreements to which it is a party;

(vii) Each of FD/MK and Association shall have delivered to the CTB, in form and substance reasonably satisfactory thereto, certificates signed by the appropriate officer of FD/MK and Association, respectively, as to the incumbency of the person or persons authorized to execute and deliver this Agreement, the Comprehensive Agreement and all other Project Agreements to which it is a party;

(viii) no action, proceeding or investigation shall have been instituted or threatened, nor shall any order, judgment or decree have been issued or proposed to be issued by any government to set aside, restrain, enjoin or prevent the consummation of any transaction contemplated by this Agreement, the Comprehensive Agreement or any other Project Agreement;

(ix) no material adverse change shall have occurred in the consolidated assets, liabilities, operations or financial condition of FD/MK, the Association or any other party to a Project Agreement, other than as resulting from the issuance of the Bonds or other Project Debt as contemplated by the Comprehensive Agreement and this Agreement;

(x) as of the Financial Closing Date, there shall exist no event of default and no condition, event or act which, with the giving of notice or lapse of time, or both, would constitute an event of default under this Agreement or any other Project Agreement;

(xi) The CTB shall have received evidence satisfactory to it of the taking of all actions and the delivery of all of the opinions, schedules, certificates, insurance policies, bonds, authorizing resolutions, financial statements and other documents and papers required to be delivered to the underwriter, trustee or credit facility provider in connection with the issuance of the Bonds and any other project debt; and

(xii) The CTB, Association and FD/MK shall have executed and delivered the Contractor Loan Agreement, and Fluor Corporation and Morrison Knudsen Corporation shall have executed and delivered the Completion Guaranty and the Guaranty of Contractor Loan Agreement.

(c) The Trustee shall not be authorized to make any disbursement of moneys in the Series 1998D Bond Proceeds Account unless (i) on the date of such payment, Association and FD/MK shall have delivered to the Department and the Trustee, as appropriate, a Draw Request and Certificate with respect to such payment or disbursement in the form set forth in Exhibit 1 to the Master Indenture; and (ii) on the date of such draw, there exists no default and no condition, event or act which, with the giving of notice or lapse of time, or both, would constitute an event of default under this Agreement or the Indenture.

Section 3.5 Not a Debt of the United States or the Commonwealth. In no event shall this Agreement or the SIB Loan be deemed to constitute a commitment, guarantee or obligation of the United States. In no event shall this Agreement or the SIB Loan be deemed a debt of the State, the CTB, the Department or any other agency, instrumentality or political subdivision of the State. Neither this Agreement nor the SIB Loan shall constitute or be deemed or interpreted to be a public debt within the meaning of Article X of the Virginia Constitution.

Section 3.6 Restriction on Transferability. The Series 1998D Second Tier Subordinate Bond has not been registered, and has been offered and sold in reliance upon an exemption from registration under the Securities Act of 1933, as amended (the "Securities Act"), and the securities laws of the Commonwealth of Virginia. Such Bond may not be offered or resold by the holder thereof unless registered under the Securities Act and any applicable

securities laws of the Commonwealth of Virginia, or unless, in the opinion of counsel to the Department, an exemption from the registration requirements is available.

ARTICLE IV

COVENANTS

Section 4.1. Compliance with Federal Requirements. The Association hereby covenants and agrees that so long as the SIB Bond is outstanding:

(a) The design, construction and operation of the Project will comply with all Federal requirements which generally apply to projects under Title 23 to the extent applicable to the loan of federal funds under this Agreement for the purposes set forth in Section 3.3; and

(b) The Association shall maintain or cause to be maintained proper books of records and account in accordance with Generally Accepted Accounting Principles.

Section 4.2 Agreement to Repay; Obligations Unconditional. The Association covenants and agrees to repay the SIB Loan at the times and in the manner required by the SIB Bond, this Agreement and the Indenture, solely from funds available for such purpose under provisions of the Indenture. The obligation of the Association to make the payments required in Section 3.2 and to perform and observe the other agreements contained herein shall be absolute and unconditional and shall not be subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach by the CTB, the Department or Trustee of any obligation to the Association, whether hereunder or otherwise, or out of any indebtedness or liability at any time owing to the Association by the CTB, the Department or the Trustee, and, until such time as the principal of, premium, if any, and interest on the SIB Bond shall have been fully paid or provision of the payment thereof shall have been made in accordance with the Indenture, the Association (i) will not suspend or discontinue any payments provided for in Section 3.2, (ii) will perform and observe all other agreements contained in this Agreement and (iii) will not terminate this Agreement or any other Project Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any act or circumstance that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, the taking by eminent domain of title to or temporary use of any or all of the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either thereof or any failure of the CTB, the Department or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement.

Section 4.3 Compliance with the Indenture. The Association agrees that so long as the SIB Bond remains outstanding it will comply with all the terms of the Indenture.

Section 4.4 Reporting. The Association will furnish to the CTB copies of all reports and other information furnished to or received from the Trustee pursuant to the terms of the Indenture.

ARTICLE V

DEFAULTS AND REMEDIES

Section 5.1. Defaults and Remedies.

(a) Each of the following shall constitute a default by Association under this Agreement: (i) an "Event of Default" as defined in Section 902 of the Indenture; (ii) failure by the Association in the performance or observance of any agreements or conditions on its part contained in this Agreement, and the continuance of such failure for a period of 30 days after written notice thereof by the CTB or the Department to the Association, or (iii) the termination of the Comprehensive Agreement by the Department (except any termination as to FD/MK's rights only under 16.3(a) or 17.3(c) thereof) or (iv) the occurrence and continuance of an Association Default under Section 17.4 of the Comprehensive Agreement.

(b) Upon the occurrence and during the continuation of a default under this Agreement, the CTB shall have all the rights and remedies afforded the holder of the Series 1998D Second Tier Subordinate Bond under the Indenture, and any obligation of CTB to authorize a loan to be made under this Agreement shall be suspended unless and until the default is fully cured, and shall terminate if and when the Department terminates Association's rights under the Comprehensive Agreement.

ARTICLE VI

MISCELLANEOUS

Section 6.1. Term of the Agreement. This Agreement shall remain in full force and effect from the date hereof to and including such time as the SIB Bond shall have been fully paid and all other obligations due to the CTB hereunder shall have been paid or satisfied.

Section 6.2. Notices.

(a) Whenever under the provisions of this Agreement it shall be necessary or desirable for one party to serve any notice, request, demand, report or other communication on another party, the same shall be in writing and shall not be effective for any purpose unless and until actually received by the addressee or unless served:

(i) personally,

(ii) by independent, reputable, overnight commercial courier,

(iii) by facsimile transmission:

(A) where the transmitting party includes a cover sheet identifying the name, location and identity of the transmitting party, the phone number of the transmitting device, the date and time of transmission and the number of pages transmitted (including the cover page),

(B) where the transmitting device or receiving device records verification of receipt and the date and time of transmission receipt and the phone number of the other device, and

(C) where the facsimile transmission is immediately followed by service of the original of the subject item in the manner provided in subsections (a)(i), (ii) or (iv) hereof, or

(iv) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to Association:	Pocahontas Parkway Association c/o Williams, Mullen, Christian & Dobbins Two James Center 1021 East Cary Street Richmond, Virginia 23219 Attn: Ralph L. "Bill" Axselle, Esq. Fax: (804) 783-6507
With a copy to:	R. Hart Lee, Esq. Williams, Mullen, Christian & Dobbins Two James Center 1021 East Cary Street Richmond, Virginia 23219 Fax: (804) 783-6507
If to the Commonwealth Transportation Board:	Virginia Department of Transportation 1401 East Broad Street Richmond, Virginia 23219 Attn: Commissioner Fax: (804) 786-6250
With a copy to:	James F. Hayes, Esq. Senior Assistant Attorney General 900 E. Main Street Richmond, Virginia 23219 Fax: (804) 786-9136
And to:	Geoffrey S. Yarema, Esq. Nossaman, Guthner, Knox & Elliott, LLP 445 S. Figueroa Street, 31st Floor Los Angeles, California 90071-6302 Fax: (213) 612-7801

(b) Any party may, from time to time, by notice in writing served upon the other party as aforesaid, designate an additional and/or a different mailing address in Virginia or an additional and/or a different person to whom all such notices, requests, demands, reports and communications are thereafter to be addressed. Any notice, request, demand, report or other communication served personally shall be deemed delivered upon receipt, if served by mail or independent courier shall be deemed delivered on the date of receipt as shown by the addressee's registry or certification receipt or on the date receipt at the appropriate address is refused, as shown on the records or manifest of the U.S. Postal Service or independent courier, and if served by facsimile transmission shall be deemed delivered on the date of receipt as shown on the received facsimile (provided the original is thereafter delivered as aforesaid).

Section 6.3. Assignment. Association may not assign, convey, transfer, pledge, mortgage or otherwise encumber all or part of its rights or interests in or to this Agreement, except to the Trustee pursuant to the Indenture.

Section 6.4. Limitation on Association Liability. The obligations of the Association under this Agreement are limited obligations, payable solely from the assets of the Association; and recourse against the Association shall be limited to such assets. In no event shall any of the Association's directors, officers, agents, employees or representatives be personally responsible for performing or paying any obligations of the Association hereunder, and no recourse shall be had against any of the Association's directors, officers, agents, employees or representatives, except as a result of his or her fraud, intentional misrepresentation, willful misconduct or knowing violation of criminal law.

Section 6.5 Relationship to Comprehensive Agreement. Nothing in this Agreement shall be construed as superseding or having any effect upon the Comprehensive Agreement or the rights, duties and obligations of Association and the other parties thereto with respect to each other established therein, except as otherwise provided in the Comprehensive Agreement.

Section 6.6. Time. Time is of the essence of this Agreement.

Section 6.7 Binding Effect. Subject to Section 6.3, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

Section 6.8 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 6.9 No Third Party Beneficiaries. Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligation of any of the parties to, any person that is not a party to this Agreement.

Section 6.10 Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia applicable to contracts executed and to be performed within Virginia. Venue for any legal action arising out of this Agreement shall lie in the Circuit Court of the City of Richmond, Virginia, Division I.

Section 6.11 Counterparts. This Agreement 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 agreement.

Section 6.12 Amendments. This Agreement shall not be modified, amended, canceled or revoked without the prior written consent of the Association, the CTB and, until the Indenture has been discharged in accordance with its terms, the Trustee.

Section 6.13 Entire Agreement. This Agreement and other Project Agreements constitute the entire and exclusive agreement between the parties relating to the specific matters covered herein and therein. All prior or contemporaneous verbal or written agreements, understandings, representations and/or practices relative to the foregoing are hereby superseded, revoked and rendered ineffective for any purpose.

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executive this Agreement on the date first written above.

COMMONWEALTH TRANSPORTATION BOARD

By: _____
David R. Gehr
Commonwealth Transportation Commissioner

Legal Review:

By: _____
James F. Hayes, Esq.
Senior Assistant Attorney General

Fiscal Review:

By: _____
Gregory A. Whirley, Sr.
Controller

POCAHONTAS PARKWAY ASSOCIATION

By: _____
Joseph R. Jenkins
President and Treasurer

EXHIBIT A

DEFINITIONS

(Attached)

DEFINITIONS

Account or **Accounts** means any one or more of the accounts from time to time created in any of the Funds established by the Indenture.

Accountant means any nationally recognized certified public accountant or firm of certified public accountants or accounting corporation of recognized experience and qualifications, selected by the Association, and may be the accountant or firm of accountants that regularly audits the books of the Association.

Accountant's Certificate means a certificate or opinion signed by the Accountant.

Accreted Value for Bonds of any Series shall have the meaning set forth in the Supplemental Indenture authorizing the issuance of such Series.

Aggregate Debt Service means, for any Fiscal Year or other 12-month period, as of the date of calculation, the sum of the amounts of Debt Service for such Fiscal Year or other 12-month period. In determining Aggregate Debt Service on Second Tier Subordinate Bonds for any Fiscal Year or other 12-month period, such Aggregate Debt Service shall be the sum of monthly payments during such Fiscal Year or other 12-month period assuming that such monthly payments are calculated to result in full amortization in equal, consecutive combined principal and interest payments at an interest rate equal to the higher of the actual stated interest rate or the maximum interest rate for a term equal to the remaining term of the applicable Second Tier Subordinate Bonds assuming the original term was 30 years.

Agreement Date, for purposes of the Comprehensive Agreement, means the date written on the cover page of the Comprehensive Agreement, and for purposes of the Design-Build Contract, means the date written on the cover page of the Design-Build Contract.

Amortized Value means the value of an Investment Security calculated by adding the amount of the premium paid upon acquisition to the par value of the Investment Security or deducting the amount of the discount received upon acquisition from the par value of the Investment Security, as the case may be, after such premium or discount has been amortized according to Generally Accepted Accounting Principles for the number of days since the acquisition of the Investment Security.

Annual Budget means the operating plan and budget for each Fiscal Year of the Association prepared by Association pursuant to Section 8.5(a) of the Comprehensive Agreement and Section 717 of the Master Indenture and

approved by Department pursuant to Section 8.5(b) of the Comprehensive Agreement and Section 711 of the Master Indenture.

Association means Pocahontas Parkway Association, a Virginia nonstock, nonprofit corporation, and its permitted successors and assigns, and means the "Issuer" in the context of the Indenture.

Association Default means any of the events listed in Section 17.4 of the Comprehensive Agreement.

Association Indemnitee means and includes the Association and all of its affiliates and subsidiaries, and each of their respective members, partners, managers, directors, officers, employees, authorized agents and authorized representatives.

Association Party means and includes the Association and any director, officer, employee, agent, contractor (other than Department), subcontractor (other than Department) at any tier or any representative of the Association.

Authenticating Agent means any bank or trust company or national or state banking association designated to authenticate the Bonds of any Series on behalf of the Issuer or the Trustee, as provided by any Supplemental Indenture, and its successor or successors.

Authorized Association Representative or Authorized Issuer Representative means any person designated to act on behalf of the Association or the Issuer by a certificate signed by its President or any Vice President and filed with Department, the Trustee and FD/MK.

Authorized Department Representative means any person designated to act on behalf of Department by a certificate signed by the Commissioner and filed with FD/MK, the Trustee and the Association.

Authorized FD/MK Representative means any person designated to act on behalf of FD/MK by a certificate signed by its President or any Vice President and filed with Department, the Trustee and the Association.

Available Construction Fund Amount means the amount of funds in the Construction Fund currently available to pay Costs of the Project, which amount shall equal at any given time of calculation (a) the funds then remaining in the Construction Fund, plus (b) interest and profits earned and to be earned, but not yet credited to the Construction Fund, under the investment agreement or agreements under which funds in the Construction Fund are invested, excluding interest and profits earned and to be earned and required to be, but not yet, credited to the Series 1998D Bond Proceeds Account, to the Rebate Fund, to any Account for the purpose of paying interest on any Series of Bonds or to the Retainage Account, minus (c) all amounts deposited in or credited to any

Account of the Construction Fund for the purpose of paying interest on any Series of Bonds, minus (d) all funds in the Series 1998D Bond Proceeds Account reserved for payment of costs of promoting, marketing and advertising the Project and its opening to the public incurred prior to the commencement of revenue operations on the Project, minus (e) interest and profits deposited in or credited to the Retainage Account and the Series 1998D Bond Proceeds Account.

AVI means automatic vehicle identification equipment used as part of ETTM Equipment.

Betterment means upgrading or expanding the capacity of a Utility facility being relocated that is not attributable to construction of the Project or that is made solely for the benefit of and at the election of the Utility Owner. The primary aim of Betterment is to make the Utility facility more useful, functional, durable, efficient or of greater capacity. However, the term "Betterment" shall not include modifications to a Utility facility which enable achievement of greater usefulness, functionality, durability, efficiency or capacity at costs equal to or less than the costs of a "like-for-like" replacement or relocation.

Board means the board of directors of the Association, or any successor in function.

Bond or **Bonds** means any bond or bonds, as the case may be, authenticated and delivered under and pursuant to the Indenture, including any Tax-Exempt Bond or Bonds, and the SIB Bond and the Contractor Bond.

Bond Counsel means Hunton & Williams or any other attorney or firm of attorneys, selected by the Issuer and acceptable to the Trustee and Department, whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

Bond Owner, Owner of Bonds or **Owner** means, when used with respect to Bonds, the registered owner of any Bond.

Bridge Foundation Work means that portion of the bridge substructures for all Project bridges from the top of the footing down into the support material for the structure. This work shall include all materials, labor, equipment and incidentals necessary to complete the work. It includes, but is not limited to, structure excavation, form/false work, hydraulic cement concrete, reinforcing steel, piles and drill shafts with their respective associated testing.

Business Day means any Day other than a Saturday, Sunday or other day on which The New York Stock Exchange or banks are authorized or required to close in New York, New York or Richmond, Virginia.

Capitalized Interest Account means any Account into which capitalized interest with respect to a Series of Bonds is to be deposited as provided for in a Supplemental Indenture.

Change Order means a written amendment to the terms and conditions of the Contract Documents issued in accordance with Article 19 of the Design-Build Contract.

Claims means any and all claims, disputes, disagreements, causes of action, demands, suits, proceedings, damages, injuries, liabilities, obligations, losses, costs and expenses.

Code means the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations proposed or in effect with respect thereto.

Commissioner means the Commonwealth Transportation Commissioner or any successor in function.

Competitive Transportation Facilities means any State Highway, expressway or freeway crossing of the James River (a) which is within three miles of the centerline of the Project's bridge crossing of the James River, (b) which is first placed into service after the Agreement Date and (c) the operation of which could reasonably be foreseen to have a materially adverse impact on the ability of Association to cover Debt Service and to observe its covenants under the Indenture.

Completion Bonds means Bonds issued pursuant to Section 302.3(a) of the Master Indenture.

Completion Guaranty means the Guaranty of Performance and Completion issued by FC, MKC (Delaware) and MKC (Ohio) on the Agreement Date in the form of Exhibit D to the Comprehensive Agreement, jointly and severally guaranteeing payment, performance and completion of all of FD/MK's obligations under the Comprehensive Agreement, the Project Financing Agreement and the Design-Build Contract.

Compliance Order means any written order of Department, issued after the Final Acceptance Date, which directs the Association to undertake certain improvements to the Project (a) to conform to changes in safety standards or methodologies agreed to or adopted by Department for similar portions of State Highways, or (b) to correct a specific safety condition affecting the Project which Department has determined to exist by investigation or analysis.

Compounding Date for Bonds of any Series shall have the meaning set forth in the Supplemental Indenture authorizing the issuance of such Series.

Comprehensive Agreement means the Comprehensive Agreement to Develop and Operate Route 895 Connector between FD/MK and Department dated as of June 3, 1998, and all exhibits thereto, as supplemented or amended from time to time.

Conformity means compliance with the most stringent customary manufacturing and construction tolerances where working tolerances are not specified. Where working tolerances are specified, conformity means compliance with the most stringent of such tolerances.

Construction Documents means all Shop Drawings and Working Drawings, catalog cuts and samples necessary for construction of the Project in accordance with the Contract Documents and to inspect that construction.

Construction Fund means the Route 895 Connector Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture, and includes any separate Accounts or Subaccounts established by the terms of any Supplemental Indenture or any agreement pursuant thereto.

Construction Segment means each or any segment of the Project which Department and FD/MK designate pursuant to Article 13 of the Design-Build Contract for the purpose of scheduling construction.

Construction Traffic Management Plan means the plan for traffic management submitted and approved in accordance with Section 9.1 of the Design-Build Contract.

Consultant means any Person at the time retained by or on behalf of the Association (or, to the extent specifically provided in the Indenture or in any Supplemental Indenture, by or on behalf of the Trustee or Department) for the benefit of the Bond Owners to carry out the duties imposed by or pursuant to the Indenture or a Supplemental Indenture, which Person shall be experienced and have a national and favorable reputation in the matters for which such Person is so employed.

Consulting Engineer means any Consultant with expertise in engineering. The Consulting Engineer may be an employee of Department and such employee need not have a national reputation.

Contingency means the amount available for payment of certain Costs of the Project in excess of the Contract Price or Oversight Budget, as more specifically described in Section 14.3 of the Design-Build Contract.

Continuing Disclosure Agreement means, collectively, the Continuing Disclosure Agreement between the Association and the Trustee and the Continuing Disclosure Agreement between FD/MK and the Trustee, each dated as of July 1, 1998.

Contract Documents means the Design-Build Contract, including all appendices, the Scope of Work, the Standard Specifications, the Preliminary Engineering (subject to Contractor's obligation to provide the Plans and Specifications free of any errors, omissions, inconsistencies and other defects which may be contained in the Preliminary Engineering) and the Plans and Specifications, including all amendments to any of the foregoing and all Change Orders issued.

Contractor means FD/MK.

Contractor Bond means the Series 1998E Bond issued by the Association to FD/MK under the Indenture and in accordance with the Contractor Loan Agreement on the Financial Closing Date and evidencing advances, if any, under the Contractor Loan Agreement, and any and all amendments and supplements thereto.

Contractor Claim means a separate demand by Contractor for (a) a time extension which is disputed by Department, or (b) payment of money or damages arising from work done by or on behalf of Contractor in connection with the Design-Build Contract which is disputed by Department. A Contractor Claim will cease to be a Contractor Claim upon resolution thereof, including resolution by withdrawal or release thereof or delivery of a Change Order or Design-Build Contract amendment signed by all parties.

Contractor Bond Draw Request means a draw request from the Trustee to FD/MK on the Draw Request and Certificate form attached as Exhibit 3 to the Master Indenture.

Contractor Loan Agreement means the Loan Agreement among FD/MK the Association in the form of Exhibit I to the Comprehensive Agreement, and any and all amendments and supplements thereto.

Contractor Party means and includes Contractor, any Related Party and any member company, manager, partner, director, officer, employee, agent, contractor (other than Department), subcontractor (other than Department) at any tier or any representative of Contractor or any Related Party.

Contract Price shall have the meaning set forth in Section 14.1.1 of the Design-Build Contract.

Costs of the Project means the following (provided, however, that if such costs are to be paid out of the proceeds of Tax-Exempt Bonds, "Costs of the Project" shall include only those costs permitted by the Code and which are in compliance with Section 706 of the Indenture):

(a) all amounts payable under the Design-Build Contract and all other contractors' fees and charges, the cost of labor, services, materials and

supplies used or furnished in site improvement and construction, training and testing costs, the cost of purchasing and installing machinery, equipment, facilities, rolling stock and ancillary items, and the cost of utility services;

(b) the cost of acquiring by purchase, and the amount of any deposit in court or award or final judgment in, or any settlement or compromise of, any proceeding to acquire by eminent domain, such lands, property, property rights, rights of way, easements, franchises and other interests as may be deemed necessary or convenient, options and partial payments thereon, the cost of demolishing or removing or relocating any buildings or structures or land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the amount of any incidental or consequent damages and the amount of any legal costs associated with such acquisition;

(c) the costs of preparing surveys, cost estimates, appraisals, plans and specifications (including any preliminary study or planning or any aspect thereof), traffic revenue studies fees for architectural, engineering, supervisory and consulting services, planning and development costs, the costs of obtaining governmental or regulatory permits, licenses, franchises and approvals, and any other fees or expenses necessary to establishing feasibility or practicability;

(d) Department's costs of services described in Sections 10.2(b) and (c) of the Comprehensive Agreement.

(e) Operating Expenses and amounts required to be deposited to the Renewal and Replacement Fund;

(f) to the extent not paid by the contractor, premiums of all insurance and surety and payment bonds required to be maintained, all claims and expenses relating to injury and damage, and casualty and liability insurance premiums in connection with insurance against loss from such claims;

(g) all federal, state and local taxes and payments in lieu of taxes legally required, or deemed advisable by the Issuer;

(h) interest to accrue on the Bonds during design and construction of the Project plus the time period thereafter, if any, covered by funds on deposit in the Capitalized Interest Account under the Indenture, and interest accrued during design and construction of the Project on other obligations of the Issuer to finance Costs of the Project;

(i) to the extent provided by Supplemental Indenture, any amount otherwise required to pay principal or Redemption Price of any Bonds;

(j) any amount required to fund or maintain the Debt Service Reserve Fund;

(k) repayment of all temporary borrowings incurred by or on behalf of, or advances made by or on behalf of, the Issuer in connection with the Project;

(l) Costs of Issuance, to the extent not otherwise described in this definition;

(m) all items of expense relating to any guarantee, bond insurance policy or Related Financial Transaction, to the extent not otherwise described in this definition;

(n) all amounts payable by Department or the Association under the Design-Build Contract or any other contract, agreement or other arrangement relating to the acquisition, design, construction and equipping of the Project; and

(o) all other costs and expenses relating to the acquisition, design, construction and equipping of the Project, including, but not limited to, costs of environmental mitigation and remediation.

Notwithstanding the foregoing, Costs of the Project shall not include any interest on debt (except as provided otherwise in subsection (h) above) or repayment of principal in respect of debt, returns on or of capital, costs funded from Reserve Accounts or Current Expenses. Costs of the Project shall be reduced by an amount equal to the sum of (i) the aggregate amount of grants of cash and (ii) the costs of goods and/or services in kind provided to Operator and used by Operator to pay Costs of the Project and which Operator has no legal obligation to repay. Costs of the Project also shall be reduced by the amount of any insurance proceeds, judgments and awards, including but not limited to condemnation awards, Operator receives on account of or in connection with previously incurred Costs of the Project.

Costs of Issuance means the items of expense relating to the authorization, sale and issuance of Bonds, which items of expense may include, without limitation: travel expenses; printing costs; costs of reproducing documents; computer fees and expenses; filing and recording fees; initial fees and charges of the Trustee, Registrar, Paying Agent, and other Fiduciaries; initial fees and charges of banks, insurers or other parties pursuant to guarantees, bond insurance policies and Related Financial Transactions; bond discounts; fees and expenses of underwriters; legal fees and charges; consulting fees and charges including costs of traffic studies and other feasibility studies conducted in connection with the sale of the Bonds; auditing fees and expense; financial advisor's fees and charges; costs of credit ratings; insurance premiums; fees and charges for the execution, transportation and safekeeping of Bonds; and any other administrative or other costs of issuing such Bonds and investing the Bond proceeds.

CPM/Payment Schedule means the most current schedule for the Project approved by Department as described in Section 13.3 of the Design-Build Contract.

Critical Path means the longest non-intermittent path between the first and the last event of the Project shown on the CPM/Payment Schedule (or, if more than one such path exists, each such path).

CTB means the Commonwealth Transportation Board, a state board of the State affiliated with the Department of Transportation.

Current Expenses means the Association's and/or Department's current out-of-pocket expenses of management, administration, maintenance, repair, preservation and operation of the Project and shall include, without limiting the generality of the foregoing, all expenses:

(a) to establish, market, collect, protect, adjust, transfer and account for tolls;

(b) to pay premiums and reserves for insurance;

(c) of management, administration and engineering relating to maintenance, repair and operation of the Project;

(d) of police services and incident response;

(e) of the Trustee and any securities depository;

(f) of legal services relating to Project management and operation;

(g) of marketing, promotion and advertising;

(h) to pay sales and use taxes, property taxes and any other taxes, fees, charges or levies (not based on income or revenue) imposed by a governmental entity and directly related to the Project or Project Right of Way or the operation thereof;

(i) of administering and maintaining the corporate existence of Association, and of administering Association's compliance with its obligations under the Project Agreements;

(j) compensation due to Department under Section 8.2(e) of the Comprehensive Agreement or for services, including Oversight Services, rendered after the Opening Date to the extent provided in Section 10.2 of the Comprehensive Agreement; and

(k) otherwise required or permitted to be paid by the Association or Department under the provisions of the Indenture, the Comprehensive Agreement or by law for management and operation of the Project.

Notwithstanding the foregoing, "Current Expenses" shall not include payments made by the Association or the Trustee to any reserve accounts under the Indenture, any expenses of Extraordinary Maintenance and Repair, or any payments of Debt Service.

Custom Software means (a) all Software and associated documentation that is first conceived or first actually reduced to practice in connection with development of the Project, (b) all revisions, modifications, derivations, translations, abridgments, condensations and expansions of such Software or other forms in which such Software may be recast, transformed or adapted, and (c) all compilations that incorporate the work or matter described in subsection (b) above.

Days means calendar days, unless otherwise designated.

Debt Service means, with respect to any particular Fiscal Year or other 12-month period, and as of any calculation date, an amount equal to the sum of:

(a) all principal of and interest on the applicable Outstanding Bonds, that is payable during such period; and

(b) the Redemption Price of such Outstanding Bonds payable during such period with respect to any Outstanding Bonds that are to be redeemed during such period pursuant to mandatory redemption provisions or pursuant to optional redemption provisions that have been exercised by the Issuer as of the calculation date.

For purposes of this definition:

(1) Debt Service shall not include the principal and Redemption Price of and interest on Outstanding Bonds to the extent the same is to be paid from proceeds of Bonds or other funds held by the Trustee or an escrow agent for the benefit of the Owners of Outstanding Bonds pursuant to Section 502 of the Indenture, and investment earnings on such proceeds or other funds.

(2) Interest paid and payable on Bonds with respect to which a Related Financial Transaction is in effect shall be determined by taking into account (in a manner that does not result in the duplication of payment requirements): (i) regularly scheduled payments due pursuant to such transaction so long as no failure to pay or event of default under such transaction has occurred and is continuing and (ii) upon termination of such transaction (by reason of an event of default or otherwise), amounts actually paid with respect to the termination of such transaction.

Debt Service Fund means the Route 895 Connector Toll Road Revenue Bond Debt Service Fund established by Section 502 of the Indenture.

Debt Service Reserve Fund means the Route 895 Connector Toll Road Revenue Bond Debt Service Reserve Fund established by Section 502 of the Indenture.

Debt Service Reserve Fund Requirement means the Senior Bonds Debt Service Reserve Account Requirement and First Tier Subordinate Bonds Debt Service Reserve Account Requirement.

Defeasance Investment Securities means any one or more of the following securities, if and to the extent the same are, at the time acquired, Investment Securities: (i) non-callable securities which are direct obligations of, or which are unconditionally guaranteed by, the United States; and (ii) any other security approved in writing by each Rating Agency.

Defect means, with respect to each element or aspect of the Work for which acceptable tolerances are specified in the Contract Documents or Reference Documents, any such element or aspect not conforming to such specified tolerances, and with respect to each element or aspect of the Work for which acceptable tolerances are not specified in the Contract Documents or Reference Documents, any such element or aspect not conforming to industry standards applicable thereto as of the time such element or aspect of the Work is undertaken; provided that in all instances "Defect" includes any element or aspect of the Work not conforming to the Design-Build Contract, Plans and Specifications, Laws, Regulations and Ordinances or Regulatory Approvals.

Department means the Virginia Department of Transportation, a department of the State, and any other State agency succeeding to the powers, authorities and responsibilities of Department invoked by or under the Comprehensive Agreement.

Department Capital Cost Savings Account means the Department Capital Cost Savings Account of the Route 895 Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture.

Department-Caused Delays means unavoidable delays, to the extent that they affect a Critical Path, arising from the following matters and no others: (a) a suspension order pursuant to Section 20.1 of the Design-Build Contract (but not exceeding 24 hours), (b) Directed Changes, (c) failure of Department to provide responses to submittals and matters for which response by such Person is required, within the time periods indicated in the Contract Documents, (d) uncovering, removing and restoring Work, to the extent provided in Section 5.2.2.5 of the Design-Build Contract, and (e) any improper failure to act by Department within a reasonable time after delivery of notice by Contractor to Department requesting such action. Any court order to suspend Work shall not

be considered a Department-Caused Delay (although it may qualify as a Force Majeure event) despite the fact that Department may specifically direct Contractor to comply with the court order.

Department Default shall have the meaning set forth in Section 17.7 of the Comprehensive Agreement.

Department Standards means the requirements applicable to performance of the Work contained in the manuals, standards and procedures set forth in the Reference Documents.

Design-Build Contract means the Design-Build Contract between Department and FD/MK dated as of June 3, 1998, a copy of which is attached to the Comprehensive Agreement as Exhibit C, and any and all amendments and supplements thereto.

Differing Site Condition means any permanent condition on, within, under or of the Project Right of Way (such as but not limited to presence of Hazardous Substances or archaeological, paleontological, biological or cultural resources) which is materially different from (a) that represented by the data and information provided or reasonably available to Contractor as of the Agreement Date or (b) that which would have been discoverable by reasonable site investigation prior to the Agreement Date in accordance with recognized industry standards, provided that subsection (b) above shall not apply in determining whether any change in location of the Plume is a Differing Site Condition. A Differing Site Condition shall be deemed to include all manifestations of the same condition.[1]

Directed Change means any change in the Work (including changes in the standards applicable to the Work) which Department has directed Contractor to perform by Directive Letter pursuant to Section 19.3.1 of the Design-Build Contract or by Change Order under Section 19.3.2 of the Design-Build Contract. The term shall also include changes in the Work which are directly attributable to delays caused by bad faith actions, active interference, gross negligence or comparable tortious conduct by Department. The fact that Department has delivered a Directive Letter does not necessarily mean that a change in the Work has occurred.

Directive Letter means each letter issued by Department pursuant to Section 19.3.1 of the Design-Build Contract.

1/ For example, if a given geologic formation is continuous and affects the Project Right of Way in more than one location, all such locations are together part of the same "condition." Conversely, if, for example, a location is affected by a geologic fault and a nearby location is affected by a rock formation, each would be a separate "condition." Similarly, each and every discrete archeological site would be a separate "condition."

Discretionary Directed Change means any Directed Change other than a Safety Directed Change.

Draft Plans and Specifications means all drawings (including plans, elevations, sections, details and diagrams) furnished by Contractor showing the sizes, shapes and location of component elements comprising the Project and all specifications, reports, calculations, records and submittals necessary for design of the Project furnished by Contractor as described in Article 3 of the Design-Build Contract.

Draw Request means a draw request from FD/MK on the Draw Request and Certificate form attached as Exhibit 1 to the Master Indenture.

EIS means that certain signed final environmental impact statement, record of decision and re-evaluation for the Project prepared and approved by FHWA in 1994.

Environmental Laws means all Laws, Regulations and Ordinances now or hereafter in effect relating to the environment or to emissions, discharges, releases or threatened releases of Hazardous Substances into the environment including into the air, surface water or ground water or onto land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances or otherwise relating to the protection of public health, public welfare or the natural environment (including protection of nonhuman forms of life, land, surface water, groundwater and air) including the statutes listed in the definition of Hazardous Substances; the National Environmental Policy Act, as amended, 42 U.S.C. §§ 4321 et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. §§ 651 et seq.; the Hazardous Materials Transportation Act, as amended, 49 App. U.S.C. §§ 1801 et seq.; the Endangered Species Act, as amended, 16 U.S.C. §§ 1531 et seq.; the Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq.; and the Migratory Bird Treaty Act, 16 U.S.C. §§ 703 et seq.

Escrow Material means all Source Code and Source Code Documentation with respect to Proprietary Software, including all relevant commentary, explanations and other documentation, as well as instructions to compile such Source Code, plus all modifications, additions or substitutions made to such Source Code and Source Code Documentation by the Proprietary Software supplier.

ETTM means electronic toll and traffic management.

ETTM Data means all data generated by or accumulated in connection with the operation of the ETTM System, including but not limited to customer lists, customer identification numbers, customer account information and billing records and other customer specific information, and including but not limited to

use and enforcement data, origin and destination information, ETTM performance statistics, and real time traffic flow information.

ETTM Equipment means the AVI equipment; video monitoring equipment; manual, automatic and electronic toll collection equipment; the transportation management system equipment; communications equipment; and all other computer hardware necessary to meet the performance specifications for ETTM set forth in the Contract Documents.

ETTM Facilities means the administration/operations building, toll booths, canopies, utility connections, lighting facilities, pedestrian tunnels, etc.

ETTM System means the ETTM Equipment and the Software which monitors, controls or executes the ETTM Equipment.

Event of Default, for purpose of the Indenture, means an Event of Default as such term is defined in Section 902 of the Indenture, and for purposes of the Design-Build Contract, shall have the meaning set forth in Section 25.1 of the Design-Build Contract.

Extraordinary Completion Bonds means Bonds issued at the direction of the Department, in the case of insufficient funds to complete the Project, pursuant to subsection 2 of Section 720 of the Master Indenture.

Extraordinary Maintenance and Repair means maintenance, repair, renewal, reconstruction or replacement of any portion or component of the Project of a type which is not normally included as an annually recurring cost in Department's roadway maintenance and repair budgets.

Fair Market Value means, as of any particular time: (i) as to Investment Securities whose bid and asked prices are published on a regular basis in a financial journal or publication of general circulation in the United States of America, the bid price for such Investment Securities so published on or most recently prior to the date of valuation by the Trustee, or (ii) as to Investment Securities whose bid and asked prices are not published on a regular basis in a financial journal or publication of general circulation in the United States of America, the average bid price for such Investment Securities at the date of valuation by the Trustee, as reported to the Trustee by any three nationally recognized dealers in such Investment Securities.

FC means Fluor Corporation, a Delaware corporation, and its successors.

FD/MK means FD/MK Limited Liability Company, a Delaware limited liability company, and its permitted successors and assigns.

FD/MK Default shall have the meaning set forth in Section 17.1 of the Comprehensive Agreement.

FD/MK Indemnitee means and includes FD/MK and all of its member companies, parents, affiliates and subsidiaries, and each of their respective managers, directors, officers, employees, authorized agents and authorized representatives.

Fiduciary or **Fiduciaries** means the Trustee, the Registrar, the Paying Agent, and any escrow, authenticating or other agent of the Issuer or of any other Fiduciary, or any or all of them, as the context may require.

Final Acceptance means the occurrence of the events described in subsections (a) through (h) inclusive of Section 18.2.1 of the Design-Build Contract.

Final Acceptance Date means the date on which Final Acceptance occurs under the Design-Build Contract.

Financial Closing Date means the date on which the Bonds have been issued, sold and delivered to investors in accordance with the provisions of the Indenture.

Financial Transaction means any rate swap transaction, basis swap, cap transaction, floor transaction, hedge, collar transaction; any other "Transaction" as defined in the 1992 U.S. Municipal Counterparty Definitions published by the International Swap Dealers Association, Inc. or any amendments to or subsequent editions of such Definitions or any similar transaction (regardless of how defined) permitted under any such amendments to or more recent editions of such Definitions or of any similar publications of such association or any similar organization; any transactions similar to any of the foregoing; or any combination of any of the transactions described in this definition.

First Supplemental Indenture means the First Supplemental Indenture authorizing the issuance of the Series 1998 Bonds substantially in the form attached as Exhibit G to the Comprehensive Agreement.

First Tier Subordinate Bonds mean any Bonds designated as "First Tier Subordinate Bonds" by a Supplemental Indenture.

First Tier Subordinate Bonds Debt Service Account means the First Tier Subordinate Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

First Tier Subordinate Bonds Debt Service Reserve Account Requirement means the lesser of (i) 10 percent of the issue price within the meaning of the Code of the applicable First Tier Subordinate Bonds, (ii) the maximum annual principal and interest requirements for the applicable First Tier Subordinate Bonds, or (iii) 125 percent of the average annual principal and interest requirements for the applicable First Tier Subordinate Bonds.

Fiscal Year means the consecutive 12-month period beginning July 1 and ending June 30, or any other consecutive 12-month fiscal period used by Department for financial accounting purposes.

Fitch means Fitch Investors Service, Inc., its successors and assigns, and if Fitch Investors Service, Inc., shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer in its stead.

Fixed Price Amount shall have the meaning set forth in Section 14.1.1 of the Design-Build Contract.

Force Majeure means any of the following events (provided such events are beyond the control of Contractor and are not due to an act or omission of Contractor) which materially and adversely affects Contractor's obligations hereunder and which event (or the effects of which event) could not have been avoided by due diligence and use of reasonable efforts by Contractor:

(a) any tidal wave, hurricane force wind, flood, tornado or earthquake;

(b) any epidemic, blockade, rebellion, war, riot or act of sabotage or civil commotion;

(c) any strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence, except as excluded under subsection (iii) below;

(d) any unreasonable delay by a utility owner in connection with a Utility Relocation;

(e) any change in or new enactment of any written Laws, Regulations and Ordinances, or change in the judicial or administrative interpretation of, or adoption of any new Laws, Regulations and Ordinances which is materially inconsistent with Laws, Regulations and Ordinances in effect on the Agreement Date (subject to the exclusions set forth below);

(f) any suspension of the Work to the extent permitted under Section 25.4 of the Design-Build Contract; and

(g) any court order which restrains, enjoins, challenges or delays performance of the Work or the granting or renewal of any Regulatory Approval.

The term "Force Majeure" shall be limited to the matters listed above and specifically excludes from its definition the following matters which might otherwise be considered force majeure:

(i) fire or other physical destruction or damage, including lightning, explosion, drought, rain, storm or action of the elements or other acts of God not listed in subsection (a) above;

(ii) except as provided in subsection (b) above, explosion, malicious or other acts or similar occurrence;

(iii) strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence particular to a Contractor Party or the Project;

(iv) the presence at, near or on the Site of any Hazardous Substance;

(v) the presence at, near or on the Site of any archaeological, paleontological or cultural resource or endangered species;

(vi) Differing Site Conditions;

(vii) the suspension, termination, interruption, denial or failure to obtain or nonrenewal of any permit, license, consent, authorization or approval (including all Regulatory Approvals except to the extent that Department has agreed to be responsible for them in Section 10.3 of the Design-Build Contract) which is necessary for the performance of the Work or the operation or maintenance of the Project, except for any such matter resulting from a lawsuit as described in subsection (d) above;

(viii) a change in any Laws, Regulations and Ordinances (such as increases in tax rates) which causes an increase in amounts payable by Contractor for deliverables but which does not change the obligations to be performed by Contractor hereunder;

(ix) any lawsuit relating to any Regulatory Approval which is Contractor's risk under Article 10 of the Design-Build Contract, except as provided in subsection (e) above;

(x) Directed Changes;

(xi) any delay or cost risk for which coverage is to be provided through insurance required hereunder; and

(xii) all other matters not caused by Department or beyond the control of Department and not listed in subsections (a) through (g) above.

Fund or **Funds** means any one or more, as the case may be, of the separate special funds established by the Indenture or by any Supplemental Indenture.

Generally Accepted Accounting Principles or **GAAP** means such accepted accounting practice as, in the opinion of the Accountant, conforms at the time to a body of generally accepted accounting principles.

Governmental Person means any federal, state, local or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity.

Guaranteed Completion Date shall have the meaning set forth in Section 17.2.1 of the Design-Build Contract.

Guaranty of Contractor Loan Agreement means the Guaranty of Contractor Loan Agreement to be issued on the Financial Closing Date by FC, MKC (Ohio) and MKC (Delaware), in the form attached as Exhibit J to the Comprehensive Agreement, jointly and severally guaranteeing payment and performance by FD/MK under the Contractor Loan Agreement, and any and all amendments and supplements thereto.

Hazardous Substance means (a) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., the Clean Water Act, 33 U.S.C. Section 1251 et seq., the Clean Air Act, 42 U.S.C. Section 7401 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 136 et seq., Virginia Waste Management Act, §10.1-1400 et seq., Code of Virginia (1950) as amended, all as amended or as may be amended, or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes, (c) petroleum or crude oil or products thereof other than petroleum and petroleum products which are contained within regularly operated motor vehicles, (d) asbestos and (e) radioactive wastes and substances.

Implementation Guidelines means the Implementation Guidelines under the PPTA adopted by the Commissioner on July 1, 1995 governing the selection of Qualifying Transportation Facilities under the purview of Department, as such Implementation Guidelines may be amended or supplemented.

Indenture means the Master Indenture of Trust from the Association to the Trustee pursuant to which the Bonds are to be issued, substantially in the

form attached to the Comprehensive Agreement as Exhibit F, and each Supplemental Indenture entered into pursuant thereto.

Inspection means the act of viewing or looking carefully at construction, manufacturing and design and maintenance practices, processes and products, including document control and Shop Drawing review, to ensure the practices, processes and products comply with the quality requirements contained in the Contract Documents.

Intellectual Property means ETTM books and records, toll-setting and traffic management algorithms, and Software and associated documentation used in connection with the Project (including but not limited to Software and associated documentation used for management of traffic on the Project) and the ETTM Data.

Interest Payment Date means the date on which interest is due and payable on any Series of Bonds.

Interest Rate means any interest rate borne or to be borne by a Series of Bonds.

Investment Security or **Investment Securities** means any one or more of the following securities:

(a) Direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America;

(b) Obligations, debentures, notes or other evidences of indebtedness issued or guaranteed, directly or indirectly, by any of the following: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Federal National Mortgage Association; Federal Home Loan Mortgage Corporation; Farmers' Home Administration; Tennessee Valley Issuer; Federal Farm Credit System; Federal Financing Bank; the Government National Mortgage Association; the Student Loan Marketing Association; or any successor;

(c) Obligations issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes, preliminary loan notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(d) Direct and general obligations of or obligations guaranteed by the State, the payment of the principal of and interest on which is a general

obligation of the State, provided that at the time of their purchase, such obligations are rated in one of the two highest rating categories by each Rating Agency;

(e) Demand deposits or interest-bearing time deposits, certificates of deposit or other similar banking arrangements, with the Trustee or a member of the Federal Deposit Insurance Corporation, or any such institution having (or whose parent holding company has) undivided capital and surplus of at least $50,000,000, provided that such time deposits or certificates of deposit, to the extent not insured to the full amount thereof, must be fully secured by obligations of the type specified in (a), (b), (c) or (d) above or (g) below which have a Fair Market Value, including accrued interest, at least equal at all times to the amount of such deposits;

(f) Repurchase Agreements with banks which are members of the Federal Deposit Insurance Corporation or with members of the Association of Primary Dealers in United States Government Securities (or any successor thereof), the underlying securities of which are of the type described in (a) above, which are held by a third party bank for safekeeping on behalf of the Issuer, and which are fully secured at all times by obligations of the same type which have a Fair Market Value, including accrued interest, at least equal to the amount of such Repurchase Agreement, provided that at the time such Repurchase Agreement is acquired, the issuer of the repurchase agreement is rated at least "A" by Moody's, if any Bonds are then rated by Moody's, and at least "A-" by S&P, if any Bonds are then rated by S&P;

(g) Direct and general obligations of any state, political subdivision or governmental authority within the territorial United States of America, provided that at the time of their purchase, such obligations are rated in one of the two highest rating categories by each Rating Agency;

(h) Certificates of deposit of any bank, including the Trustee, with undivided capital and surplus of at least $50,000,000, the unsecured debt of which is rated as of the date of acquisition in one of the two highest rating categories by each Rating Agency, with such certificates of deposit to be secured by any other Investment Securities or any security then acceptable to secure deposits of public funds of the State and having a Fair Market Value, including accrued interest, at least equal to the amount of the certificate of deposit;

(i) Investment agreements with any bank or other financial institution, including the Trustee, with undivided capital and surplus of at least $50,000,000, the unsecured debt of which is rated as of the date of acquisition in one of the two highest rating categories by each Rating Agency, with such investment agreement to be secured by any other Investment Securities described herein or by any security then acceptable to secure deposits of public

funds of the State and having a Fair Market Value, including accrued interest, at least equal to the amount of the Investment Agreement;

(j) Unsecured investment agreements with the Trustee or any bank or other financial institution the unsecured debt or counterparty rating of which is rated, as of the date of acquisition in one of the two highest rating categories by each Rating Agency; and

(k) Any other obligation which, at the time acquired, is rated, by each Rating Agency, in one of the two highest rating categories for long-term obligations or in the highest rating category for short-term obligations.

Issuer means the Association.

ITS means any application of computer, electronics and/or telecommunications equipment and software and supporting fixtures and equipment whose function is to provide information, data and/or services to the traveling public or Department or to manage and control traffic, all items listed in the Federal Highway Administration Intelligent Transportation Systems Summary Report dated January 19, 1995, and any future systems or services conceived or developed for the same or similar purposes; however ITS shall not include the ETTM System as used for Project Purposes.

Laws, Regulations and Ordinances means all applicable laws, codes, rules, ordinances, restrictions and regulations of the federal, State, regional or any local government (including those resulting from the initiative or referendum process) and judicial or administrative orders.

Letter of Instructions means a written directive and authorization executed by an Authorized Association Representative.

Letter of Representations means the Letter of Representations between the Issuer and The Depository Trust Company, New York, New York, regarding the Public Debt issued under the Indenture, and, if necessary, any similar letter regarding any additional Bonds offered and sold to the public.

Lien means any pledge, lien, security interest, mortgage, deed of trust or other charge or encumbrance of any kind, or any other type of preferential arrangement (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature of a security instrument and the filing of or agreement to file any financing statement under the Virginia Uniform Commercial Code).

Liquidated Damages shall have the meaning set forth in Section 25.6 of the Design-Build Contract.

Master Indenture means the "Master Indenture" referred to in the definition of Indenture, without regard to any Supplemental Indenture.

Memorandum and Assignment means the Memorandum of Comprehensive Agreement and Absolute Assignment of Toll Revenues among Department, FD/MK, the Association and the Trustee in the form of Exhibit K to the Comprehensive Agreement, and any and all amendments and supplements thereto.

MKC (Delaware) means Morrison Knudsen Corporation, a Delaware corporation and its successors.

MKC (Ohio) means Morrison Knudsen Corporation, an Ohio corporation and its successors.

Moody's means Moody's Investors Service Inc., its successors and assigns, and, if Moody's Investors Service, Inc., shall for any reason no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer and its stead.

Nationally Recognized Municipal Securities Information Repository or NRMSR means a nationally recognized municipal securities information repository, as recognized from time to time by the Securities and Exchange Commission by no-action letter for the purposes referred to in SEC Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended.

NEPA means the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., as amended and as it may be amended from time to time.

Non-Construction Costs means (1) the costs of Project Right of Way acquisition and relocation, (2) the costs of Utility Relocations, (3) the costs of design and engineering, (4) the costs of promoting, marketing and advertising the Project and its opening to the public incurred prior to the commencement of revenue operations on the Project, and (5) any other costs approved by the Department pursuant to Section 3.3 of the SIB Loan Agreement.

Notice of Proposed Change/Direction means a notice issued by Department concerning a possible Change Order, as specified in Section 19.3.2 of the Design-Build Contract.

Notice of Termination means a notice issued by Department to terminate the Design-Build Contract and the performance of the Work by Contractor pursuant to Article 26 of the Design-Build Contract.

Opening Date means the first date on which the Project (other than overpasses and underpasses) is opened for regular public use.

Operating Expenses means Current Expenses.

Operator shall have the meaning assigned to such term in Section 56-557 of the PPTA and, for purposes of the Comprehensive Agreement, means FD/MK from the Agreement Date to and including the Transition Date and means the Association thereafter until the end of the Term of the Comprehensive Agreement.

Optimum Toll Revenues means the highest aggregate Toll Revenues that the Toll Consultant reasonably estimates may be collected in any Fiscal Year, based on a traffic study conducted as and when required under Section 4.2 of the Comprehensive Agreement or Section 717 of the Indenture.

Outstanding means, with respect to any Bonds as of any date, Bonds theretofore or thereupon being authenticated and delivered under the Indenture except:

(a) Bonds canceled or delivered for cancellation at or prior to such date;

(b) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to the Indenture; and

(c) Bonds deemed to have been paid, redeemed, purchased or defeased as provided in the Indenture, in any Supplemental Indenture, as applicable, or as provided by law.

Oversight Budget shall have the meaning set forth in Section 5.2.3 of the Design-Build Contract.

Oversight Services means those services and functions Department has the right or obligation to perform or to cause to be performed under the Laws, Regulations and Ordinances or any Project Agreement in order to monitor, review, manage or administer the Project Agreements or the work or performance of the Operator under the Project Agreements; provided that Oversight Services do not include performance by Department of responsibilities delegated to it under Section 8.3 of the Comprehensive Agreement.

Paying Agent means any bank or trust company or national or state banking association (which may include the Trustee) designated to make payment of the principal and Redemption Price of and interest on the Bonds of any Series, and its successor or successors, hereafter appointed by Supplemental Indenture and meeting the requirements of Article X of the Indenture.

Payment Bond means the payment bond described in Section 22.6 of the Design-Build Contract.

Performance Bond means each performance bond to be provided by a Subcontractor as described in Section 22.6 of the Design-Build Contract.

Person means any individual, public or private corporation, county, district, authority, municipality, political subdivision or other entity of the State or the United States of America, and any corporation, limited liability company, partnership, association, firm, trust, estate, or any other entity whatsoever.

Plans and Specifications means the 100% completed maps, plans, drawings and specifications for different components of the Work as approved by Department's Chief Engineer and bearing the seal of a Virginia licensed engineer.

Plume means the existing underground plume of Hazardous Substances located generally on the west side of the James River in the vicinity of the Route 895 and I-95 interchange, as depicted and described (a) in the certain report entitled "Environmental Site Assessment, Virginia Department of Transportation, I-95/I-895 James River to Route 1," prepared by Nick Froelich, of the Department, and Marshall Miller & Associates, bearing MM&A Project No. VRR190 and (b) on the certain map of such vicinity comparing contamination in 1993 and 1997, prepared by Site Blauveldt.

PPTA means the Public-Private Transportation Act of 1995, which is codified as Title 56, Chapter 22, Section 56-556 et seq., Code of Virginia, as amended from time to time.

Pre-Existing Hazardous Substances means any Hazardous Substance that was present within the Project Right of Way limits prior to acquisition of the property for the Project, and which was not placed or deposited there by either Contractor or Department.

Pre-Opening Expense Draw Request means a draw request from the Issuer on the Draw Request and Certificate form attached as Exhibit 2 to the Master Indenture.

Preliminary Engineering means all the attachments included in Appendices A and B to the Scope of Work.

Principal Installment means, to the extent applicable to a particular Series, as of any particular date of calculation, an amount of money equal to the aggregate of (i) the principal amount or Accreted Value of Outstanding Bonds of such Series which mature on a single future date, reduced by the aggregate principal amount or Accreted Value of such Outstanding Bonds of such Series which would at or before said future date be retired as a result of Sinking Fund Installments applied in accordance with the Indenture plus (ii) the amount of any Sinking Fund Installment payable on said future date for the retirement of any Outstanding Bonds of such Series.

Project means (a) all improvements constituting the Route 895 Connector as generally described in the Scope of Work, (b) the ETTM Facilities and

System, (c) all other improvements and other Work Product to be provided by Contractor as a condition to Final Acceptance in accordance with the Contract Documents, including all replacement wetlands and other off-site improvements required by applicable Law, Regulations and Ordinances and Regulatory Approvals, and (d) any Project Enhancements; provided, however, that the term "Project" as used in the Design-Build Contract excludes any Project Enhancements.

Project Agreement means any of the Comprehensive Agreement, the Memorandum and Assignment, the Contract Documents, the Project Financing Agreement, the Completion Guaranty, the Indenture, the SIB Loan Agreement, the SIB Loan Note, the Contractor Loan Agreement, the Guaranty of Contractor Loan Agreement, the Continuing Disclosure Agreement and the Bonds issued pursuant to the First Supplemental Indenture; and the term "Project Agreements" means all such agreements and documents in the aggregate.

Project Enhancements means any extensions of, additions to, or major modifications, replacements or reconstruction of the Project undertaken by Department or the Association with Department direction and approval after the date of Substantial Completion, including but not limited to new ramps and connectors, roadway and ramp widenings, lane additions (including high occupancy vehicle lanes), rail and transit improvements, and other additional access facilities and capacity improvements to the Project.

Project Financing Agreement means the Project Financing, Assignment and Assumption Agreement among Department, FD/MK and the Association in the form of Exhibit E to the Comprehensive Agreement, and any and all amendments and supplements thereto.

Project Manager shall have the meaning set forth in Section 2.2.3 of the Design-Build Contract.

Project Purposes means and is limited to the developing, permitting, design, financing, acquisition, construction, installation, equipping, maintenance, repair, preservation, modification, operation, management and administration of the Project. Project Purposes exclude, however, any activities associated with Reserved Rights.

Project Right of Way means all real property (which term is inclusive of all estates and interests in real property) which is necessary for ownership and operation of the Project by Department. The term specifically includes (a) all property within the access control line for the Project and (b) the property on which the ETTM Facilities are located. The term specifically excludes any temporary easements or other real property interests which Contractor deems necessary or advisable in connection with construction of the Project and/or Utility Relocations.

Proprietary Software means all Software and associated documentation developed outside the scope of the Comprehensive Agreement and the Design-Build Contract but used for Project Purposes.

Public Debt means the Senior Bonds, the First Tier Subordinate Bonds and any other Bonds issued in a public offering under the Indenture. Public Debt shall not include the SIB Bond, the Contractor Bond or any other Bonds issued to Department or Contractor.

Punch List means the list of Work which remains to be completed after achievement of Substantial Completion, and shall be limited to minor incidental items of Work necessary to correct imperfections which have no adverse effect on the safety or operability of the Project.

Qualified Management Contract means a contract that, pursuant to the applicable United States Treasury regulations, will not result in use of the Project by the manager under such contract being "private business use" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended.

Qualifying Transportation Facility shall have the meaning assigned to such term in Section 56-557 of the PPTA.

Quality Assurance (QA) means all those planned and systematic actions necessary to provide confidence that all Work fully complies with the Contract and that all materials incorporated in the Work, all equipment and all elements of the Work will perform satisfactorily for the purpose intended. Actions include design checks and reviews; document control; Shop Drawing review and approval; materials sampling and testing at the production site and the Project site; inspection of manufacturing/processing facilities and equipment; inspection of on-site equipment, calibration of test equipment, documentation of QA activities, etc.

Quality Assurance Manager means the independent consultant responsible for inspecting and testing in accordance with the Quality Assurance and Control Inspection Program as described in Appendix C attached to the Scope of Work.

Quality Assurance and Control Inspection Program means the program described in Appendix C attached to the Scope of Work.

Quality Control (QC) means the total of all activities performed by Contractor, designer, producer, or manufacturer to ensure that a product meets Contract requirements. For highway design, construction and maintenance this includes design procedures and checking, materials handling and construction procedures, calibration and maintenance of equipment, Shop Drawing review, document control, production process control, and any sampling, testing, and

inspection done for these purposes. QC also includes documentation of QC efforts.

Rating Agency means any one or more, as the context may require, of the following that as of the date of applying this definition maintain a rating on the applicable Bonds: Fitch, Moody's and S&P.

Rebate Analyst means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Issuer to make the computations required under the Indenture or any Supplemental Indenture.

Rebate Fund means the Route 895 Connector Toll Road Revenue Bond Rebate Fund established by Section 502 of the Indenture, and includes any separate accounts or subaccounts established by the terms of any Supplemental Indenture or any agreement pursuant thereto.

Record Date as used with respect to any Interest Payment Date for any Series of Bonds offered and sold to the public means the date designated in any Supplemental Indenture as the record date for the payment of interest on such Series of Bonds, or if no Record Date is so designated (i) with respect to interest not in default, the fifteenth day next preceding such Interest Payment Date in respect of such Series and (ii) with respect to defaulted interest, the fifth day preceding payment thereof.

Redemption Date means the date upon which any Bonds are to be redeemed prior to their respective fixed maturities pursuant to the mandatory or optional redemption provisions of any Supplemental Indenture.

Redemption Price means, with respect to any Bond, the amount, including any applicable premium, payable upon the mandatory or optional redemption thereof, as provided in any Supplemental Indenture.

Reference Documents means those documents listed in the Scope of Work.

Refunding Bonds means all Bonds, whether issued in one or more Series, issued for the purpose of refunding a like or different principal amount of Bonds, and authenticated and delivered pursuant to the Indenture.

Register means the register maintained by the Registrar for each Series of Bonds which shows ownership of Bonds in accordance with Section 308 of the Indenture.

Registrar means any bank or trust company or national or state banking association (which may include the Trustee), designated to keep a Register of the Owners of the Bonds of any Series and its successor or successors,

hereafter appointed by Supplemental Indenture and meeting the requirements of Article X of the Indenture.

Regulatory Approvals means all local, regional, state and federal agreements, studies, findings, permits, approvals, authorizations, certifications, consents, decisions, exemptions, filings, leases, licenses, registrations, rulings and other governmental authorizations required to be obtained or completed under applicable Laws, Regulations and Ordinances prior to undertaking any particular activity contemplated by the Comprehensive Agreement or Design-Build Contract. The term "Regulatory Approvals" includes the EIS.

Reimbursable Site Work means the portion of the Differing Site Conditions Work, if any, subject to reimbursement by Contractor pursuant to Section 19.4.1.2(e)(ii) of the Design-Build Contract.

Related Financial Transaction means, with respect to any Series of Bonds, a Financial Transaction pursuant to which payments by the Issuer are to be paid from or secured by revenues or funds pledged to the payment of or as security for such Series of Bonds and payments to the Issuer are pledged to the payment of or as security for such Series of Bonds.

Related Party means:

(a) any person or entity that is a stockholder, member, manager or general or limited partner of FD/MK or that owns, directly or through one or more intermediate entities a 10% or greater equity interest in FD/MK (each a "substantial owner");

(b) any entity in which a substantial owner owns directly or through one or more intermediate entities a 10% or greater equity interest;

(c) any entity effectively controlled by a substantial owner; or

(d) senior management of FD/MK, or members of the immediate family of any individual substantial owner or of such senior management.

Renewal and Replacement Fund means the Route 895 Connector Toll Road Revenue Bond Renewal and Replacement Fund established by Section 502 of the Indenture.

Renewal and Replacement Fund Requirement means the amount to be deposited on an annual basis into the Renewal and Replacement Fund as specified by the Department for inclusion in the Annual Budget.

Repurchase Agreement means any agreement entered into with a Person pursuant to which the Trustee, on behalf of the Issuer, purchases and

such Person agrees to repurchase specified Investment Securities, provided that the repurchase price shall not be less than the purchase price.

Reserved Rights means all of the following:

(a) subject to Section 12.1 and the last sentence of Section 19.2 of the Comprehensive Agreement, Department's right to use, possess and enjoy any real and personal property over, on, under or adjacent to the Project Right of Way for other transportation and transit facilities, including but not limited to tunnels, flyovers, interchanges and fixed guideways; and

(b) all right to use, and use of:

(i) all electrical, fiber optic and wireless conduit, cable, capacity, towers, antennas and associated equipment or other telecommunications equipment, hardware and capacity existing over, on, under or adjacent to any Project Right of Way installed by anyone, whether before or after the Agreement Date, and all Software which executes such equipment and hardware and related documentation, to the extent not necessary and required for traffic management for the Project or for other Project Purposes;

(ii) ETTM Data or other data generated from operation of the Project or toll collection technology except as required solely for Project Purposes;

(iii) any area or space over, on, under or adjacent to the Project Right of Way for development and operation of any office, commercial, industrial or mixed use real estate project, such as but not limited to revenue-generating service or rest areas;

(iv) any equipment, facilities or capabilities for ITS studies or applications installed by Department and the right to install any such equipment, facilities or capabilities other than the ETTM System;

(v) toll collection technology for other than Project Purposes; and

(vi) any area or space over, on, under or adjacent to the Project Right of Way for any other commercial or non-commercial development or use.

Responsible Public Entity shall have the meaning assigned to such term in Section 56-557 of the PPTA and, for purposes of the Comprehensive Agreement, means Department.

Retainage shall have the meaning set forth in Section 14.2.6.1 of the Design-Build Contract.

Retainage Account means the Retainage Account of the Route 895 Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture.

Revenue Fund means the Route 895 Connector Toll Road Revenue Bond Revenue Fund established by Section 502 of the Indenture.

Revenues means all amounts received by or on behalf of the Association from Toll Revenues; proceeds from insurance (other than proceeds of fire and other casualty insurance), condemnation awards with respect to the Project; all amounts payable to the Association (but not Department) as liquidated damages under contracts, in each case, to the extent the same relate to the Project; all amounts derived from the sale or other disposition of the Association's interest in the Project; amounts derived as grants, loans or otherwise from the United States of America, the State or any other Person which may be available for, and which the Association determines to, deposit in the Revenue Fund; all investment earnings that are transferred to or deposited into the Revenue Fund; all moneys released from another Fund or Account and transferred to the Revenue Fund pursuant to subsection 2 of Section 505 of the Indenture; and all other amounts derived from or in respect of the operation of the Project which constitute revenues in accordance with Generally Accepted Accounting Principles, including without limitation tolls and any interest income earned on any Funds and Accounts which is required to be transferred to or maintained in any Fund, Account or Subaccount hereunder; provided, however, Revenues exclude (a) the costs of goods and/or services in kind provided to Association with respect to which Association has no obligation of repayment, (b) moneys and interest thereon held in the 1998 Series D Subaccount of the Construction Fund, (c) moneys and interest thereon held in the Department Capital Cost Savings Account of the Construction Fund, (d) amounts Department elects to fund under Section 6.5(c) or (e) of the Comprehensive Agreement, (e) moneys and interest thereon held in any other Fund or Subaccount other than the Revenue Fund and (f) revenues and proceeds arising out of or relating to Reserved Rights or the disposition of surplus or residual property.

RFC Notice shall have the meaning set forth in Section 19.4.2.1 of the Design-Build Contract.

Right of Way Acquisition Plan means the modifications to Department's Right of Way Manual of Instructions prepared by Contractor and approved by Department pursuant to Section 6.1.1 of the Design-Build Contract.

Right of Way Plans means the Project Right of Way plans included in the Preliminary Engineering.

ROW/Utility Allowance means the portion of the Contract Price allocated to Project Right of Way Work and Utility Relocation Work, as further described in Section 14.1 of the Design-Build Contract.

Rule 15c2-12 means Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (17 C.F.R. §240.15c2-12).

S&P means Standard & Poor's Ratings Group, a Division of McGraw-Hill, Inc., its successors and assigns, and, if Standard & Poor's Ratings Group, a Division of McGraw-Hill, Inc., shall for any reason no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer in its stead.

Safety Directed Change means a Directed Change directing Contractor to perform changes in the Work and setting forth a written finding of the Department's Chief Engineer to the effect that it is issued to conform to changes in safety standards or methodologies agreed to or adopted by Department for similar portions of State Highways.

Safety Program means Contractor's approved safety program meeting the requirements set forth in Section 5.1.2 of the Design-Build Contract.

Scheduled Completion Date shall have the meaning set forth in Section 14.5.1 of the Design-Build Contract.

Scope of Work means the document attached to the Design-Build Contract as Appendix 6.

Second Tier Subordinate Bonds means any Bonds designated as "Second Tier Subordinate Bonds" by a Supplemental Indenture.

Second Tier Subordinate Bonds Debt Service Account means the Second Tier Subordinate Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

Securities Depository means The Depository Trust Company, a corporation organized and existing under the laws of the State of New York, and any successor Securities Depository appointed pursuant a Supplemental Indenture.

Senior Bonds mean any Bonds designated as "Senior Bonds" by a Supplemental Indenture.

Senior Bonds Capitalized Interest Subaccount has the meaning set forth in any Supplemental Indenture.

Senior Bonds Capitalized Interest Subaccount Requirement means the amount required to be deposited in the Senior Bonds Capitalized Interest Subaccount by any Supplemental Indenture, calculated in the manner and times as set forth therein.

Senior Bonds Debt Service Account means the Senior Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

Senior Bonds Debt Service Reserve Account means the Senior Bonds Debt Service Reserve Account of the Debt Service Reserve Fund established by Section 502 of the Indenture.

Senior Bonds Debt Service Reserve Account Requirement means the lesser of (I) 10 percent of the issue price within the meaning of the Code of the applicable Senior Bonds, (ii) the maximum annual principal and interest requirements for the applicable Senior Bonds, or (iii) 125 percent of the average annual principal and interest requirements for the applicable Senior Bonds.

Series means Bonds identified as a separate series which are authenticated and delivered on original issuance and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to any Supplemental Indenture. All Bonds of a particular Series shall be of the same Tier.

Series 1998D Bonds Proceeds Account means the Series 1998D Bonds Proceeds Account of the Construction Fund established by Section 502 of the Indenture.

Shop Drawings means drawings showing the sizes, shapes and locations of component elements comprising the Project.

SIB Bond means the Series 1998D Bond issued to the CTB under the Indenture and in accordance with the SIB Loan Agreement evidencing the SIB Loan, and any and all supplements and amendments thereto.

SIB Loan means the loan authorized to be made by the CTB to the Association under the SIB Loan Agreement.

SIB Loan Agreement means the SIB Loan Agreement among the CTB, the Association and the Trustee in the form of Exhibit H to the Comprehensive Agreement, and any and all amendments and supplements thereto.

SIB Loan Note means the promissory note to be delivered by the Association to the CTB in the form attached as Exhibit B to the SIB Loan Agreement.

Sinking Fund Installment means, as of any particular date of calculation and with respect to any Series of Bonds, the amount of money to be applied as the Redemption Price of Bonds subject to mandatory sinking fund redemption in any Fiscal Year prior to maturity pursuant to the Supplemental Indenture for such Series, as such Sinking Fund Installment shall have been previously reduced by

the principal amount of any Bonds of such Series of the maturity in respect of which such Sinking Fund Installment is payable which are purchased or redeemed by the Trustee in accordance with the provisions of Section 507 of the Indenture or of any Supplemental Indenture, other than by the prior payment of a Sinking Fund Installment.

Site means those areas designated in writing by Department for performance of the Work and such additional areas as may, from time to time, be designated in writing by Department for Contractor's use in performance of the Work. The Site initially includes the area within the Project Right of Way limits. For purposes of insurance, indemnification, safety and security requirements and payment for use of equipment the term "Site" also includes any areas on which Utility Relocation Work is performed and any property being temporarily used by Contractor for storage of equipment and/or construction Work.

Software means (a) computer instructions, including programs, routines and databases and applications supplied, procured or developed by Contractor as part of the Work or by the Association or Department in connection with the operation of the Project or other Project Purposes or in connection with Reserved Rights, including but not limited to that which monitors, controls or executes on ETTM Equipment or ITS equipment or hardware, and (b) all modifications, updates and revisions made to the matter described in subsection (a) above, including those made to correct errors or to support new models of computer equipment and/or new releases of operating systems.

Source Code means Software program higher order language listings, internal documentation embedded in program listings, associated data files and data structures, in electronic and/or printed form, necessary for maintenance of and modifications to the Software.

Source Code Documentation means the program level Software design documentation, associated data files, data structures and algorithm descriptions necessary to make program code level modifications to delivered Software.

Standard Specifications means the Virginia Department of Transportation Metric Road and Bridge Specifications dated January 1997, provided that the document attached to the Design-Build Contract as Appendix 9 shall be substituted for Division I thereof. Divisions II through VII will not apply to the Work except in connection with any design furnished by Contractor which references the Standard Specifications.

State means the Commonwealth of Virginia.

State Highway means any highway designated a State Highway pursuant to Title 33.1, Chapter 1, Sections 25, 48 and 67, Code of Virginia.

State Indemnitee means and includes Department, the Commissioner, the CTB, the State and all elected representatives, appointed officials, commissioners, officers, members, employees, authorized agents and authorized representatives of any of them.

Subaccount means any one or more of the subaccounts from time to time created in any of the Accounts established by Section 502 of the Indenture or by any Supplemental Indenture.

Subcontract means any agreement by Contractor with any other Person to perform any part of the Work or provide any materials, equipment or supplies for any part of the Work, or any such agreement at a lower tier, between a Subcontractor and its lower tier Subcontractor.

Subcontractor means any Person with whom Contractor has entered into any Subcontract to perform any part of the Work or provide any materials, equipment or supplies for the Project on behalf of Contractor (and any other Person with whom any Subcontractor has further subcontracted any part of the Work).

Subordinate means, when used with respect to a particular Tier of Senior Bonds, First Tier Subordinate Bonds or Second Tier Subordinate Bonds or bonds or other obligations subordinate thereto, all Bonds with respect to which amounts in the Revenue Fund are to be applied to the Debt Service Account for such Bonds pursuant to subsection 1 of Section 505 of the Indenture at a priority following the priority at which such amounts are to be applied to the Debt Service Account for the particular Tier of Bonds.

Substantial Completion shall have the meaning set forth in Section 17.3 of the Design-Build Contract.

Superior Obligation means a Tier of Bonds that is paid out of a Debt Service Account at a priority above the priority of another Debt Service Account for another Tier of Bonds pursuant to Section 505 of the Indenture.

Supplemental Indenture means any indenture supplemental to or amendatory of the Master Indenture, entered into by the Issuer and the Trustee in accordance with Article XI of the Indenture.

Supplier means any Person not performing work at the Site that supplies machinery, equipment, materials or systems 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 the State Corporation Commission to do

business in the State, listed in the U.S. Treasury Department Circular 570 and with an A.M. Best and Company rating level of A- or better, Class VII or better, or as otherwise approved by Department, at its sole discretion, which has issued the Payment Bond or Performance Bond.

Surplus Fund means the Route 895 Connector Toll Road Revenue Bond Surplus Fund established by Section 502 of the Indenture.

Tax Compliance Certificate means the tax compliance certificate delivered to the Trustee in connection with any Series of Tax-Exempt Bonds.

Tax-Exempt Bonds means Bonds the interest on which is intended to be excludable from the gross income of the Owners thereof for federal income tax purposes.

Term, for purposes of the Comprehensive Agreement, means the time period commencing on the Agreement Date and expiring on the latest date the Bonds, including the SIB Bond and Contractor Bond are paid (or fully defeased) and the lien of the Indenture has been discharged in accordance with its terms.

Tier means all Bonds of one or more Series the principal and Redemption Price of and interest on which are payable from the same Debt Service Account. Bonds issued pursuant to subsection 2 of Section 720 of the Indenture are deemed to constitute a separate Tier of Bonds.

Toll Consultant means Wilbur Smith & Associates and any other engineer or engineering firm selected by the Association (with the consent and approval of Department and the Trustee) to perform and carry out the duties imposed on the Toll Consultant under the Comprehensive Agreement and the Indenture.

Toll Revenues means all amounts received by or on behalf of the Issuer from fees, tolls, rates and charges for the privilege of traveling on the Project imposed by the Issuer pursuant to the Comprehensive Agreement. Toll Revenues excludes revenues and proceeds arising out of or relating to Reserved Rights.

Toll Servicing Rights shall have the meaning set forth in Section 3.4(b) of the Comprehensive Agreement.

Total Remaining Costs of the Project has the meaning set forth in item F of the form of Draw Request attached as Appendix 3 to the Design-Build Contract and Exhibit 1 to the Master Indenture.

Traffic and Revenue Study means the certain "Route 895 Connector Comprehensive Traffic and Revenue Study," dated May 14, 1998, prepared by Wilbur Smith & Associates, all data, charts, tables analysis and other documentation assembled or prepared by Wilbur Smith in connection therewith

and all existing and future updates, reissuances, supplements and amendments thereto.

Transition Date means the first to occur of (a) the Opening Date, (b) the Final Acceptance Date or (c) the date, if any, that FD/MK's rights under the Comprehensive Agreement and the Design-Build Contract are terminated pursuant to Article XVI of the Comprehensive Agreement.

Transportation Trust Fund Earnings Rate means for any month the composite yield during the preceding month on average assets in the Commonwealth of Virginia Transportation Trust Fund as reported in the Department of Treasury "General Account Investment Portfolio-Monthly Average Balances and Yields." The composite yield is determined by dividing the annualized earnings for the month, which includes interest accruals, accretions, amortization and realized gains and losses, by the average asset balances for the month.

Trustee means Crestar Bank, a Virginia banking corporation, its legal successor, or any other commercial bank or trust company duly organized and existing under the laws of any state or the United States of America, which is authorized under the laws of the State to exercise corporate trust powers and is subject to examination by federal authority, appointed pursuant to Article X of the Indenture as its successor or its successors.

Trust Estate means:

(a) All right, title and interest of the Issuer now owned or hereafter acquired in all Revenues and to the Funds (except for the Rebate Fund, the Series 1998D Bonds Proceeds Account, the Department Capital Cost Savings Account and the Retainage Account) including amounts deposited therein (together with all investments thereof and investment income earned thereon, including Investment Securities held therein); provided, that the Issuer may establish one or more separate accounts in the Funds and Accounts, which accounts and the amounts deposited therein (together with all investments thereof and investment income earned thereon) may be held in trust exclusively for the payment of one or more designated Series of Bonds or portions thereof or for any other designated purpose, or otherwise, all as provided in the Indenture or in any Supplemental Indenture;

(b) Any and all property of every kind and nature (including, without limitation, cash, obligations or securities) which may from time to time hereafter be assigned, hypothecated, endorsed, pledged, granted, or delivered to or deposited with the Trustee by the Issuer or anyone on its behalf, or which pursuant to any of the provisions of the Indenture may come into the possession or control of the Trustee as security under the Indenture, or of a receiver lawfully appointed under the Indenture, including, but not limited to, any Related Financial Transaction (provided, however, that the Issuer's interest with respect

to a Related Financial Transaction and the Revenues derived therefrom shall be part of the Trust Estate only in respect of the Series of Bonds to which such Related Financial Transaction relates), all of which the Trustee is authorized to receive, hold and apply according to the terms of the Indenture;

(c) All right, title and interest of the Association now owned or hereafter acquired in the Project Financing Agreement (including its rights in the Comprehensive Agreement, the Design-Build Contract and certain rights assigned by the Department under the Completion Guarantee), the Guaranty of Contractor Loan Agreement, the Completion Guarantee, the SIB Loan Agreement and the other Project Agreements to which the Association is a party or of which it is a beneficiary; and

(d) Proceeds of the foregoing.

Utility or **utility** means a public, private, cooperative, municipal and/or government line, facility or system used for the carriage, transmission and/or distribution of cable television, electric power, telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, sewage, storm water not connected with the highway drainage and similar substances that directly or indirectly serve the public. The term "Utility" specifically excludes (a) storm water lines connected with the highway drainage, and (b) traffic signals, street lights, and electrical systems for roadways.

Utility Owner or **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 Relocation means the removal, relocation and/or protection in place (including provision of temporary services as necessary) of any and all utility facilities that have to be removed, relocated and/or protected in place in order to permit construction of the Project.

Warranties means the warranties made by Contractor in Article 11 of the Design-Build Contract.

Work means all of the administrative, design, engineering, real property acquisition support services, Utility Relocation, procurement, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, maintenance, documentation and other duties and services to be furnished and provided by Contractor as required by the Contract Documents, including all efforts necessary or appropriate to achieve Final Acceptance except for those efforts which such Contract Documents specify will be performed by Persons other than a Contractor Party.

Working Drawings means drawings needed to show things associated with the construction of something to be constructed, but which will not be part of the permanent construction, e.g. formwork.

Work Product means all the data, information, documentation and other work product produced, prepared, obtained or deliverable by or on behalf of any Contractor Party or the Association and in any way related to the Project or Project Right of Way, including but not limited to Shop Drawings, Working Drawings, Draft Plans and Specifications, Plans and Specifications, record and as-built plans and specifications, engineering documents, geotechnical soils and soil boring data, analyses, reports and records, the Right of Way Plan, property acquisition files, agreements and documents (including records of payment and related correspondence, title policies, parcel diaries and all documents described in Section 6.4.2 of the Design-Build Contract), engineers' and inspectors' diaries and reports, utility relocation plans and agreements, right of way record maps and surveys, Traffic and Revenue Studies, and other feasibility data, analyses, studies and reports, correspondence and memoranda relevant to design or construction decisions, contracting plans, air quality monitoring data, environmental reviews, studies and reports, mitigation studies and reports, data, assessments, studies and reports regarding Hazardous Substance investigations, testings, borings, monitoring and analyses, manifests regarding handling, storage or transportation of Hazardous Substances, correspondence and agreements relating to Regulatory Approvals, Change Orders, final quantities, pile driving records, records of accidents and traffic management, field test records and reports, concrete pour records, surfacing depth check records, grade and alignment books, cross-section notes, drainage notes, photographs, false work and form plans, records of construction materials, Toll Equipment and Toll Facilities records and reports, and any other documents which can be reasonably described as technical or engineering documents. Work Product expressly excludes, however, documents and information which Contractor or Association (as the case may be) and Department mutually agree in writing, or which a court determines, to be exempted or protected from public disclosure under Section 18.2 of the Comprehensive Agreement and which is not conceived or first reduced to practice for Project Purposes, such as but not limited to the EPD and other proprietary financial and pricing information of Contractor.

EXHIBIT B

INITIAL SIB LOAN NOTE

(Attached)

POCAHONTAS PARKWAY ASSOCIATION
ROUTE 895 CONNECTOR
INITIAL SIB LOAN NOTE

$1,500,000 **June 3, 1998**

FOR VALUE RECEIVED, the undersigned, POCAHONTAS PARKWAY ASSOCIATION, a Virginia nonstock, nonprofit corporation, (the "Association") unconditionally promises to pay to the order of the Commonwealth Transportation Board ("CTB"), at the offices of CTB at 1401 East Broad Street, Richmond, Virginia 23219 solely from the sources and as herein provided, the sum of ONE MILLION FIVE HUNDRED THOUSAND DOLLARS ($1,500,000) (or such lesser amount as shown on Schedule A hereto), in immediately available funds, and to pay interest in like money, on the unpaid principal amount owing hereunder from time to time at a rate equal to the Transportation Trust Fund Earnings Rate, from the date hereof until payment in full of such principal amount as provided herein.

"Transportation Trust Fund Earnings Rate" shall mean for any month the composite yield during the preceding month on average assets in the Commonwealth of Virginia Transportation Trust Fund as reported in the Department of Treasury "General Account Investment Portfolio - Monthly Average Balances and Yields." The composite yield is determined by dividing the annualized earnings for the month, which includes interest accruals, accretions, amortization and realized gains and losses, by the average asset balances for the month.

This SIB Loan Note is made by the Association pursuant to Section 3.1 of the SIB Loan Agreement dated as of June 3, 1998 (the "SIB Loan Agreement") by and among CTB, the Association and Crestar Bank, as trustee, and evidences the obligation of the Association to repay the Initial SIB Loan which has been made to it pursuant to the SIB Loan Agreement and to pay interest on the unpaid principal amount thereof as provided in the SIB Loan Agreement. All capitalized terms used herein which are defined in the SIB Loan Agreement shall have the same meanings herein as therein.

Association agrees that on the Financial Closing Date, this Note shall be exchanged for a Series 1998D Second Tier Subordinate Bond issued by the Association and authenticated by the Trustee under the Indenture in the principal amount and with interest accrued thereon equal to the unpaid principal amount hereof and accrued interest hereon. If Department shall terminate all of the Association's rights and obligations under the Comprehensive Agreement pursuant to Section 16.2(a)(ii) or(iii) thereof prior to the Financial Closing Date, the Association's obligations to pay principal of and accrued interest on this Note shall be deemed satisfied by the transfer to the Department of ownership of all Work Product paid for with proceeds of the Initial SIB Loan under the Design-Build Contract.

Notwithstanding anything to the contrary contained herein, the obligations of the Association under this Note are limited obligations, payable solely from the assets of the Association; and recourse against the Association shall be limited to such assets. In no event shall any of the Association's directors, officers, agents, employees or representatives be personally responsible for performing or paying any obligations of the Association hereunder, and no recourse shall be had against any of the Association's directors, officers, agents, employees or representatives, except as a result of his or her fraud, intentional misrepresentation, willful misconduct or knowing violation of criminal law. The foregoing provisions of this paragraph shall not constitute a waiver, release or discharge of any of the obligations arising under this Note, but the same shall continue until this Note is fully paid or satisfied in accordance with the terms hereof.

IN WITNESS WHEREOF, the Association has caused this Note to be signed in its name by its President and Treasurer authorized to do so by resolution of the Board by his/her manual signature and its corporate seal to be impressed thereon and attested to by the manual signature of its Secretary, and this Note to be dated the date set forth above.

POCAHONTAS PARKWAY ASSOCIATION

By: _____
Joseph R. Jenkins
President and Treasurer

Schedule A

Date	Principal Advanced	Principal Balance	Date of Exchange or Satisfaction	Signature of Authorized Department Representative

Path: DOCSOPEN\RICHMOND\04193\47884\000033\4mx501!.DOC
Doc #: 216329; V. 1

EXHIBIT F

MASTER INDENTURE

MASTER INDENTURE OF TRUST

between

POCAHONTAS PARKWAY ASSOCIATION

and

CRESTAR BANK,
as Trustee

Dated as of July 1, 1998

Relating to

Pocahontas Parkway Association
Route 895 Connector
Toll Road Revenue Bonds

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 101. *Definitions* 2
Section 102. *Table of Contents, Titles and Headings* 2
Section 103. *Interpretation and Construction* 2

ARTICLE II

SECURITY FOR THE BONDS

Section 201. *Pledge, etc., of Trust Estate* 3
Section 202. *Time of Pledge, etc* 4
Section 203. *Declaration* 4
Section 204. *Special, Limited Obligations* 4
Section 205. *Absolute Assignment of Toll Revenues to Department Subject to Lien of Indenture* 4

ARTICLE III

AUTHORIZATION AND ISSUANCE OF BONDS,
GENERAL TERMS AND PROVISIONS OF THE BONDS

Section 301. *Authorization of Bonds* 5
Section 302. *Provisions for Issuance of Bonds* 5
Section 303. *Application of Bond Proceeds* 9
Section 304. *Medium of Payment; Form and Date; Letters and Numbers* 9
Section 305. *Legends* 10
Section 306. *Execution, Authentication and Registration* 10
Section 307. *Exchange of Bonds* 11
Section 308. *Negotiability, Transfer and Registry* 11
Section 309. *Regulations with Respect to Exchanges and Transfers* 12
Section 310. *Bonds Mutilated, Destroyed, Stolen or Lost* 12
Section 311. *Temporary Bonds* 13
Section 312. *Cancellation and Destruction of Bonds* 13

ARTICLE IV

REDEMPTION OF BONDS

Section 401. *Privilege of Redemption and Redemption Price* 14
Section 402. *Redemption at the Option of the Issuer* 14
Section 403. *Redemption Otherwise Than at the Option of the Issuer* 14
Section 404. *Selection of Bonds to be Redeemed* 14
Section 405. *Notice of Redemption* 15
Section 406. *Payment of Redeemed Bonds* 15
Section 407. *Modification by Supplemental Indenture* 16

ARTICLE V

ESTABLISHMENT OF FUNDS AND APPLICATION THEREOF

Section 501. *Security for Bonds* 16
Section 502. *Establishment of Funds and Accounts* 16
Section 503. *Construction Fund* 17
Section 504. *Revenue Fund* 19
Section 505. *Flow of Funds* 19
Section 506. *Other Transfers to Debt Service Fund and Debt Service Reserve Fund* 23
Section 507. *Debt Service Fund* 24
Section 508. *Debt Service Reserve Fund* 25
Section 509. *Renewal and Replacement Fund* 26
Section 510. *Surplus Fund* 26
Section 511. *Rebate Fund* 27
Section 512. *Modification by Supplemental Indenture* 27
Section 513. *Issuer Cash Flow Account.* 27

ARTICLE VI

MONEYS HELD IN TRUST, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 601. *Moneys Held in Trust* 28
Section 602. *Deposits and Transfers* 28
Section 603. *Investment of Funds* 29
Section 604. *Valuation and Sale of Investments* 30
Section 605. *Modification by Supplemental Indenture* 30

ARTICLE VII

PARTICULAR COVENANTS OF THE ISSUER

Section 701. *Payment of Bonds* 30
Section 702. *Related Financial Transactions* 30

Section 703. *Money for Bond Payments to be Held in Trust* 31
Section 704. *Power to Enter Into Master Indenture, Issue Bonds and Pledge Trust Estate* 32
Section 705. *Construction Contracts* 32
Section 706. *Tax Covenant* 32
Section 707. *General* 33
Section 708. *Further Assurances* 33
Section 709. *Comprehensive Agreement* 33
Section 711. *Annual Budget* 34
Section 712. *Accounts and Reports* 34
Section 713. *Rules and Regulations; Maintenance of Project* 35
Section 714. *Payment of Lawful Claims* 35
Section 715. *Consulting Engineers* 35
Section 716. *Insurance* 35
Section 717. *Rate Covenant* 35
Section 718. *Contracts With Other Persons* 37
Section 719. *Second Tier Subordinate Bonds for Unreimbursed Current Expenses* 37
Section 720. *Insufficient Funds to Complete the Project.* 37

ARTICLE VIII

DISCHARGE AND DEFEASANCE

Section 801. *Discharge of Master Indenture* 38
Section 802. *Defeasance* 39

ARTICLE IX

DEFAULT AND REMEDIES

Section 901. *Rights and Remedies, Generally* 40
Section 902. *Events of Default* 40
Section 903. *Notice of Default; Department's Cure Rights* 41
Section 904. *Specific Remedies* 41
Section 905. *Application of Proceeds* 44
Section 906. *Trustee May Act Without Possession of Bonds* 44
Section 907. *Trustee as Attorney-in-Fact* 44
Section 908. *Remedies Not Exclusive* 44
Section 909. *Limitation on Suits* 45
Section 910. *Right of Owners of the Bonds to Direct Proceedings* 45
Section 911. *Restoration of Rights and Remedies* 46
Section 912. *Waiver of Stay or Extension Laws* 46
Section 913. *Delay or Omission Not Waiver* 46

Section 914. *Notice to Owners of the Bonds of Default* 46

ARTICLE X

CONCERNING THE FIDUCIARIES

Section 1001. *Trustee; Appointment and Acceptance of Duties.* 46
Section 1002. *Paying Agents, Registrars and Other Agents; Appointment and Acceptance of Duties* 46
Section 1003. *Responsibilities of the Trustee* 47
Section 1004. *Evidence on Which the Trustee May Act* 48
Section 1005. *Compensation* 48
Section 1006. *Certain Permitted Acts* 49
Section 1007. *Resignation of Trustee* 49
Section 1008. *Removal of Trustee* 49
Section 1009. *Appointment of Successor Trustee* 49
Section 1010. *Transfer of Rights and Property to Successor Trustee* 50
Section 1011. *Merger or Consolidation* 50
Section 1012. *Adoption of Authentication* 51
Section 1013. *Resignation or Removal of Fiduciaries and Appointment of Successors* 51

ARTICLE XI

SUPPLEMENTAL INDENTURES

Section 1101. *Supplemental Indentures Effective Without Consent of Bondowners* 52
Section 1102. *Supplemental Indentures Requiring Bondowner Consent* 54
Section 1103. *Consent of Bondowners* 54
Section 1104. *Modifications by Unanimous Consent* 56
Section 1105. *Exclusion of Bonds* 56
Section 1106. *General Provisions* 56
Section 1107. *Notation on Bonds* 57
Section 1108. *Mailing* 57

ARTICLE XII

SUBORDINATE LIEN OBLIGATIONS

Section 1201. *Subordinate Lien Obligations* 57

ARTICLE XIII

MISCELLANEOUS

Section 1301. *Evidence of Signatures of Bondowners and Ownership of Bonds* 57
Section 1302. *Money Held for Particular Bonds* 58
Section 1303. *Preservation and Inspection of Documents* 59
Section 1304. *Failure to Present Bonds* 59
Section 1305. *Virginia UCC Security Agreement; Filing of Financing Statements* 59
Section 1306. *Parties Interested Herein* 60
Section 1307. *No Recourse on the Bonds* 60
Section 1308. *Limitation on Association Liability; No Individual Liability* 60
Section 1309. *Master Indenture and Supplemental Indentures to Constitute Contracts* 61
Section 1310. *Notice* 61
Section 1311. *Governing Law* 62
Section 1312. *Severability of Invalid Provisions* 62
Section 1313. *Successors* 62
Section 1314. *Holidays* 63
Section 1315. *Execution in Several Counterparts* 63
Section 1316. *Balances in Certain Funds and Accounts* 63
Section 1317. *Conflicts Among Master Indenture and Supplemental Indenture* 63

APPENDIX A - DEFINITIONS

EXHIBIT 1 - Form of Draw Request
EXHIBIT 2 - Form of Pre-Opening Expense Draw Request
EXHIBIT 3 - Form of Contractor Bond Draw Request
EXHIBIT 4 - Initial Toll Rate Schedule

This **MASTER INDENTURE OF TRUST,** dated as of July 1, 1998 (the "Master Indenture"), by and between **POCAHONTAS PARKWAY ASSOCIATION,** a Virginia non-stock, non-profit corporation (the "Issuer"), and **CRESTAR BANK,** a banking corporation organized under the laws of the Commonwealth of Virginia and having its principal corporate trust office in Richmond, Virginia (in such capacity, together with any successor in such capacity, the "Trustee");

W I T N E S S E T H:

WHEREAS, the Virginia Department of Transportation, a department of the Commonwealth of Virginia (the "Department"), and FD/MK Limited Liability Company, a Delaware limited liability company ("FD/MK"), have entered into a Comprehensive Agreement dated as of June 3, 1998 (as amended, the "Comprehensive Agreement"), pursuant to the Public-Private Transportation Act of 1995 (as amended, the "PPTA") providing for the acquisition, design, construction, equipping, financing, operation and maintenance of the Route 895 Connector as a limited access highway (the "Project"); and

WHEREAS, pursuant to the Comprehensive Agreement, FD/MK, the Department and the Issuer have entered into a Project Financing, Assignment and Assumption Agreement dated as of June 3, 1998 (as amended, the "Project Financing Agreement"), pursuant to which the Issuer has agreed, among other things, to assist FD/MK in the implementation of its plan of finance for the Project by entering into this Master Indenture and issuing the Bonds hereunder; and

WHEREAS, pursuant to a SIB Loan Agreement dated as of June 3, 1998 (as amended, the "SIB Loan Agreement"), the Commonwealth Transportation Board ("CTB") has agreed to authorize a loan to be made to the Issuer in the principal amount of $_____ to finance certain non-construction costs of the Project in exchange for the Series 1998D Bond to be delivered to CTB pursuant to the First Supplemental Indenture hereto (sometimes referred to herein as the "SIB Bond"); and

WHEREAS, pursuant to a Contractor Loan Agreement dated as of July 1, 1998 (the "Contractor Loan Agreement"), FD/MK has agreed to make loans to the Issuer under a revolving line of credit in a principal amount not to exceed $5,000,000 at any one time outstanding, for the purpose of paying debt service on the Series 1998A Bonds, the Series 1998B Bonds and the Series 1998C Bonds if there are insufficient other funds available for such purpose on the date of any payment thereon in exchange for the Series 1998E Bond to be delivered to FD/MK pursuant to the First Supplemental Indenture hereto (sometimes referred to herein as the "Contractor Bond"); and

WHEREAS, Section 56-565 of the PPTA authorizes an "operator," as defined in the PPTA, to impose tolls and user fees in connection with the use of the Project; and

WHEREAS, pursuant to the Comprehensive Agreement, the Department has granted the Issuer, as the "operator" of the Project, the exclusive right to charge tolls for the use of the Project during the period that the Issuer is entitled to manage and operate the Project; and

WHEREAS, the Issuer and the Trustee are entering into this Master Indenture to set forth (a) the conditions for the issuance of the Bonds, as hereinafter defined, (b) the granting of a security interest in and lien on the Trust Estate as security for the Bonds, (c) the rights of the Bondowners, as hereinafter defined, and (d) the appointment of a trustee for such Owners; and

For and in consideration of the mutual covenants hereinafter contained and for other valuable consideration, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 101. ***Definitions.*** For purposes of this Master Indenture (the "Master Indenture"), except as otherwise expressly provided or unless the context otherwise requires, capitalized words and phrases used herein shall have the meanings given to such words and phrases in Appendix A hereto.

Section 102. ***Table of Contents, Titles and Headings.*** The table of contents, titles and headings of the articles and sections of this Master Indenture have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Master Indenture or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 103. ***Interpretation and Construction.*** For purposes of this Master Indenture, except as otherwise expressly provided or unless the context otherwise requires:

1. All references in this Master Indenture to designated "Articles," "Sections," "subsections," "paragraphs," "clauses" and other subdivisions are to the designated Articles, Sections, subsections, paragraphs, clauses and other subdivisions of this Master Indenture. The words "herein," "hereof," "hereto," "hereby," "hereunder" and other words of similar import refer to this Master Indenture as a whole, including Appendix A, and not to any particular Article, Section or other subdivision.

2. The terms defined in Appendix A hereto have the meanings assigned to them in that Appendix and include the plural as well as the singular.

3. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with Generally Accepted Accounting Principles as in effect from time to time.

4. As used herein and in any Supplemental Indenture with respect to Bonds which are capital appreciation bonds, the terms "principal," "Principal Installments" and "interest" shall be deemed to include the Accreted Value of such Bonds unless otherwise expressly provided.

5. The term "money" includes any cash, check, deposit, investment security or other form in which any of the foregoing are held hereunder.

6. Every "request," "order," "demand," "application," "appointment," "notice," "statement," "certificate," "consent" or similar action hereunder by the Issuer, the Trustee, or any other Fiduciary shall, unless otherwise specifically provided, be in writing signed by an officer or other agent of such party authorized to sign the same.

7. In the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and each of the words "to" and "until" means "to but excluding."

8. This Master Indenture and all terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Master Indenture.

ARTICLE II

SECURITY FOR THE BONDS

Section 201. ***Pledge, etc., of Trust Estate.***

1. In order to secure the payment of the principal and Redemption Price of and interest on the Bonds as the same become due and payable (whether at maturity, by prior redemption, or otherwise) and the performance and observance of all of the covenants and conditions herein contained, and in consideration of the premises, the purchase and acceptance of the Bonds by the Owners thereof, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Issuer does hereby grant and assign to the Trustee and its successors in trust hereunder a pledge of, security interest in and lien on the Trust Estate, with all rights and privileges appurtenant thereto, subject, however, to the terms and provisions hereof.

2. Such pledge, security interest and lien shall be for the equal and proportionate benefit and security of the Owners from time to time of the Bonds issued and to be issued hereunder, or any of them, without preference, priority or distinction as to lien or otherwise of

any Bond over any other Bond, except that, as further provided herein and subject to the further terms hereof, (i) the Owners of the Bonds of each Tier shall have an exclusive lien on the Debt Service Account, the Capitalized Interest Subaccount and the Debt Service Reserve Account (to the extent such Accounts exist with respect to particular Tiers) with the same designation as such Tier of Bonds, (ii) the lien on the Trust Estate of the Owners of Bonds of certain Tiers is subordinate or superior to the lien of the Owners of Bonds of other Tiers and (iii) there are various differences in the rights of, and priorities for the benefit of, the Owners of the Bonds of different Tiers with respect to various other matters, including but not limited to remedies following Events of Default.

Section 202. ***Time of Pledge, etc.*** The pledge of, security interest in and lien on the Trust Estate pursuant to the provisions of this Master Indenture shall be effective from and after the payment for and delivery of any Bonds hereunder.

Section 203. ***Declaration.*** It is hereby expressly declared that the Trust Estate hereby pledged is to be applied, disbursed, dealt with and disposed of under, upon and subject to the terms, conditions, covenants, agreements, uses and purposes set forth in this Master Indenture.

Section 204. ***Special, Limited Obligations.*** Bonds issued hereunder shall be special, limited obligations of the Issuer payable solely from the Trust Estate in accordance with this Master Indenture and any applicable Supplemental Indenture. The Department's approval of the issuance of the Bonds and of the documents pertaining to the Bonds shall not be construed as a guarantee or endorsement of the Bonds or the Traffic and Revenue Study or any representation, warranty or other assurance as to the ability of the Issuer to perform its obligations with respect to the Bonds or the adequacy of the Toll Revenues to provide for payment of the Bonds. The Bonds shall not be a debt of the Commonwealth of Virginia, the Department, CTB or any other agency, instrumentality or political subdivision of the State, moral or otherwise, and neither the full faith and credit nor the taxing power of the State, the Department, CTB or any other agency, instrumentality or political subdivision of the State is pledged to the payment of the principal of and interest on the Bonds.

Section 205. ***Absolute Assignment of Toll Revenues to Department Subject to Lien of Indenture.*** Immediately after the execution and delivery of this Master Indenture and the First Supplemental Indenture hereto, the Issuer shall irrevocably and absolutely transfer and assign all Toll Revenues to the Department, subject to the lien of this Master Indenture and each Supplemental Indenture at any time entered into in accordance with the provisions hereof, pursuant to the Memorandum and Assignment.

ARTICLE III

AUTHORIZATION AND ISSUANCE OF BONDS, GENERAL TERMS AND PROVISIONS OF THE BONDS

Section 301. ***Authorization of Bonds.***

1. The Issuer hereby authorizes the issuance of Bonds, to be designated as its "Route 895 Connector Toll Road Revenue Bonds," for the purpose of financing or refinancing the acquisition, design, construction, improvement, repair or reconstruction, equipping, operation and maintenance of the Project. The aggregate principal amount of the Bonds which may be executed, authenticated and delivered under this Master Indenture is not limited except as may be provided herein or in any Supplemental Indenture.

2. The Bonds may, as provided in one or more Supplemental Indentures, be issued in one or more Series, and the designation thereof, in addition to the name "Route 895 Connector Toll Road Revenue Bonds" and an identification of the Tier in which such Series is included, shall include such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series, as the Issuer may determine. Each Bond shall bear upon its face the designation so determined for the Series and Tier to which it belongs.

3. The Bonds shall be issued in such form as may be provided by Supplemental Indenture, and each Bond issued hereunder shall contain on its face a statement to the effect set forth in Section 204 hereof.

Section 302. ***Provisions for Issuance of Bonds.***

1. All (but not less than all) the Bonds of each Series shall be executed by the Issuer for issuance under this Master Indenture and delivered to the Trustee and thereupon shall be authenticated by the Trustee or Authenticating Agent and by it delivered upon the order of the Issuer, but only upon the receipt by the Trustee of:

(a) An opinion of Bond Counsel in customary form to the effect that, as of its date (i) this Master Indenture and the Supplemental Indenture authorizing the Bonds of such Series have been duly authorized, executed and delivered by the Issuer, are in full force and effect and constitute legal, valid and binding special, limited obligations of the Issuer; (ii) this Master Indenture and such Supplemental Indenture create the valid pledge of, security interest in and lien on the Trust Estate which they purport to create, subject only to the provisions of this Master Indenture and such Supplemental Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in this Master Indenture and such Supplemental Indenture; and (iii) the Bonds of such Series are valid and binding special, limited obligations of the Issuer, payable solely from the sources provided therefor in this Master Indenture and such Supplemental

Indenture; provided, however, that such opinion (1) may include exceptions for limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization, or other laws affecting creditors' rights generally, matters relating to equitable or governmental principles and other exceptions or qualifications appropriate in the circumstances, and (2) need not refer to any Supplemental Indenture in the case of any Series of Bonds issued pursuant to Section 719 or subsection 2 of Section 720;

(b) A letter, signed by an Authorized Issuer Representative, instructing the Trustee as to the delivery of such Bonds;

(c) In the case of each Series of Bonds except Series of Bonds issued pursuant to Section 719 or subsection 2 of Section 720, an executed copy of the Supplemental Indenture authorizing such Bonds which shall specify:

(1) The authorized principal amount, designation, Tier and Series of such Bonds;

(2) The maturity date or dates of the Bonds of such Series;

(3) The interest rate or rates, if any, or the manner of determining such interest rate or rates, on the Bonds of such Series and the Interest Payment Date or Dates thereof;

(4) The denominations of and the manner of dating, numbering and lettering the Bonds of such Series;

(5) Any capitalized interest requirement (or the method of determining the same) for the Bonds of such Series;

(6) Any Paying Agent, Registrar, or other Fiduciary required in respect of the Bonds of such Series;

(7) The Redemption Prices, if any, and the redemption or purchase terms, for the Bonds of such Series;

(8) The amount and due date of each Sinking Fund Installment, if any, for Bonds of like maturity of such Series;

(9) The Debt Service Reserve Requirement, if any, for Bonds of such Series;

(10) The form of the Bonds of such Series; and

(11) Any other provisions deemed advisable by the Issuer and not in conflict with the provisions of this Master Indenture or any Supplemental Indenture.

(d) Such further opinions and instruments as are required by or pursuant to the provisions of this Master Indenture or any Supplemental Indenture.

2. All Refunding Bonds of each Series shall be executed by the Issuer for issuance under this Master Indenture and delivered to the Trustee and thereupon shall be authenticated by the Trustee or any Authenticating Agent and by it delivered upon the order of the Issuer, but only upon the receipt by the Trustee of:

(a) The opinions and instruments referred to in subsection 1 of this Section 302;

(b) If any Bonds or portions thereof to be refunded are to be called for redemption, a Letter of Instructions containing irrevocable instructions to the Trustee, satisfactory to it, requiring that the notice required by this Master Indenture or any applicable Supplemental Indenture be given of the redemption of the Bonds or portions thereof to be refunded on a Redemption Date specified in such instructions;

(c) A Letter of Instructions containing irrevocable instructions to the Trustee, satisfactory to it, requiring that such other notice be given to the Owners of the Bonds being refunded as may be required by this Master Indenture or any applicable Supplemental Indenture;

(d) Evidence satisfactory to the Trustee that the deposit of moneys or Investment Securities required by Section 802 hereof has been made, including, but not limited to, the verification report and the opinion of Bond Counsel required by Section 802; and

(e) An opinion, in form and substance satisfactory to the Trustee, of counsel with recognized expertise in the area of bankruptcy, that the proceeds of the Refunding Bonds may not be recovered by creditors of the Issuer as an avoidable preference under Section 547 of the United States Bankruptcy Code.

(f) Such further opinions and instruments as are required by the provisions of Articles VIII, XI or XII hereof or by the provisions of any Supplemental Indenture.

3. Except for any Series of Bonds issued pursuant to the First Supplemental Indenture or issued pursuant to Section 719 or subsection 2 of Section 720, no additional Series of Bonds shall be issued unless the following additional requirements are satisfied:

(a) If the Series of Bonds is for the purpose of completing the Project as originally contemplated in the Comprehensive Agreement, such Series of Bonds may be issued, without satisfying the requirements of paragraphs (b) or (d) of this subsection, upon delivery to the Trustee of (1) FD/MK's Draw Request setting forth its estimate of the costs to complete the Project and whether the Available Construction Fund Amount is sufficient to pay Total Remaining Costs of the Project and (2) a written determination of a Consultant that proceeds of such Series of Bonds, together with any other moneys available for such purpose (independently verified by such Consultant), will be sufficient to pay the cost of so completing the Project. Such Completion Bonds may be issued as Senior Bonds or First Tier Subordinate Bonds.

(b) For additional Series of Bonds subject to this subsection but not otherwise permitted pursuant to paragraphs (a) or (d) of this subsection, the following conditions are met, as applicable:

(1) If such Bonds are Senior Bonds, a certificate or report of a Consultant is delivered to the Trustee to the effect that for each 12-month period beginning on the first day of the first calendar month following the date of issuance of the Series of Bonds to be issued, Toll Revenues (based upon such assumptions as shall be set forth in such certificate or report and subject to the adjustment provided in this paragraph) are estimated to meet both the following conditions: (i) such Toll Revenues shall equal at least 1.50 times Aggregate Debt Service on outstanding Public Debt for each such 12-month period, and (ii) unless waived by the Department, such Toll Revenues shall equal at least 1.00 times the Aggregate Debt Service on all outstanding Bonds for each such 12-month period plus the projected Current Expenses for each such 12-month period. For purposes of this paragraph, Aggregate Debt Service for each such 12-month period shall include Aggregate Debt Service due during such 12-month period on the Series of Bonds to be issued. The projected Current Expenses for each such 12-month period shall be based on a report of a Consultant.

(2) If such Bonds are First Tier Subordinate Bonds, a certificate or report of a Consultant is delivered to the Trustee to the effect that for each 12-month period beginning on the first day of the first calendar month following the date of issuance of the Series of Bonds to be issued, Toll Revenues (based upon such assumptions as shall be set forth in such certificate or report and subject to the adjustment provided in this paragraph) are estimated to meet both the following conditions: (i) such Toll Revenues shall equal at least 1.30 times Aggregate Debt Service on outstanding Public Debt for each such 12-month period, and (ii) unless waived by the Department, such Toll Revenues shall equal at least 1.00 times the Aggregate Debt Service on all outstanding Bonds for each such 12-month period plus the projected Current Expenses for each such 12-month period. For purposes of this paragraph, Aggregate Debt Service for each such 12-month period shall include Aggregate Debt Service due during such 12-

month period on the Series of Bonds to be issued. The projected Current Expenses for each such 12-month period shall be based on a report of a Consultant.

(3) In all cases, the Trustee shall have received a certificate of an Authorized Issuer Representative dated as of the date of issuance of such additional Series of Bonds, stating that there exists no Event of Default hereunder or no such Event of Default shall exist immediately following the issuance of such additional Bonds.

(4) In all cases, the Trustee shall have received written evidence (or other evidence satisfactory to the Trustee) from each Rating Agency that the issuance of such additional Series of Bonds will not, by itself, result in a withdrawal of or reduction of its rating of any Bonds.

(5) A certificate or report of a Consultant is delivered to the Trustee to the effect that, for the 12-month period ending with the last full calendar month before the issuance of the Series of Bonds to be issued, Toll Revenues were equal to at least 1.25 times Aggregate Debt Service on Outstanding Senior Bonds and First Tier Subordinate Bonds.

(c) The Trustee shall have received a certificate of an Authorized Department Representative consenting to the issuance of such additional Series of Bonds, which consent shall not be unreasonably withheld.

(d) Without regard to the limitations of paragraphs (b)(1), (b)(2), (b)(3) and (b)(5) above, but subject to satisfaction of paragraphs (b)(4) and (c) above, for any Refunding Bonds, the Trustee shall have received a Consultant's certificate or opinion stating that the rate covenant of subsection 1 of Section 717 hereof will be met throughout the term of such Refunding Bonds (based upon such assumptions as shall be set forth in such certificate or opinion); provided, however, if Debt Service on the Refunding Bonds for each 12-month period through the final maturity thereof is less than or equal to Debt Service on the Bonds refunded by such Refunding Bonds no such Consultant's certificate or opinion shall be required.

Section 303. ***Application of Bond Proceeds.*** The proceeds, including accrued interest, if any, of the Bonds of each Series together with any other moneys provided by the Issuer, shall be applied simultaneously with the delivery of such Bonds in the manner provided in the Supplemental Indenture authorizing such Series of Bonds.

Section 304. ***Medium of Payment; Form and Date; Letters and Numbers.***

1. The Bonds shall be payable, as to principal, Redemption Price, and interest in any coin or currency of the United States of America which at the time of payment

is legal tender for the payment of public and private debts. Interest on any Series of Bonds shall be computed as provided in the Supplemental Indenture authorizing such Series of Bonds.

2. The Bonds of each Series may be issued in such form or forms as shall be provided in the Supplemental Indenture authorizing such Series of Bonds.

3. Each Bond shall be lettered and numbered as provided in this Master Indenture or the Supplemental Indenture authorizing the Series of which such Bond is a part and so as to be distinguished from every other Bond.

4. Bonds of each Series shall be dated as of, and bear interest from, such date or dates as shall be provided in the Supplemental Indenture authorizing such Series of Bonds.

5. Unless a Supplemental Indenture provides otherwise:

(a) Interest on Bonds of any Series other than interest payable at maturity or on a Redemption Date shall be paid to the Person in whose name such Bond is registered on the Register at the close of business on the Record Date for such Interest Payment Date. Payment of interest on Bonds other than interest payable at maturity or on a Redemption Date shall be made by check or draft of the Paying Agent mailed to the Owners thereof at their addresses set forth in the Register as of the Record Date;

(b) Payment of interest on Bonds at maturity or on a Redemption Date shall be paid upon presentation and surrender of such Bonds at the Paying Agent's principal operations office; and

(c) Payment of the principal or Redemption Price on Bonds shall be paid upon presentation and surrender of such Bonds at the Paying Agent's principal office or such other office designated by the Paying Agent in accordance with the notice provisions of this Master Indenture.

Section 305. ***Legends.*** The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Master Indenture as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission, brokerage board, municipal securities rulemaking board or otherwise.

Section 306. ***Execution, Authentication and Registration.*** The Bonds shall be signed in the name of the Issuer by the President or by such other officer of the Issuer authorized to do so by resolution of the Board by his or her manual or facsimile signature, and the Issuer's corporate seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise

reproduced thereon and attested by the Secretary or Assistant Secretary of the Issuer. In case any such officer of the Issuer who shall have signed any of the Bonds shall cease to hold such office before the Bonds so signed shall have been authenticated and delivered by the Trustee or a duly authorized Authenticating Agent, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed on behalf of the Issuer by such persons who at the time of the execution of such Bonds shall be duly authorized or holds the designated office of the Issuer, although at the date borne by the Bonds of such Series such persons may not have been so authorized or have held such office.

The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in the Supplemental Indenture authorizing such Bonds, dated as of the date of authentication, executed manually by an authorized signatory of the Trustee or by a duly authorized Authenticating Agent. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under the Master Indenture and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed. Such certificate of authentication upon any Bond shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under this Master Indenture and that the Owner thereof is entitled to the benefits of this Master Indenture.

Section 307. ***Exchange of Bonds.*** Unless otherwise provided in any Supplemental Indenture, Bonds, upon surrender thereof at the principal operations center of the Registrar, when surrendered with a written request satisfactory to the Registrar duly executed by the Owner or the Owner's duly authorized attorney, may, at the option of the registered Owner thereof, and upon payment by such registered Owner of any charges which the Registrar or the Issuer may make as provided in Section 309 hereof, be exchanged for an equal aggregate principal amount of Bonds of the same Series and maturity and in any authorized denomination.

Section 308. ***Negotiability, Transfer and Registry.*** Unless otherwise provided in any Supplemental Indenture, Bonds shall be transferable only upon the Register, which shall be kept for that purpose at the principal operations center of the Registrar for such Series of Bonds, by the Owner thereof in person or by the Owner's attorney duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Owner or the Owner's duly authorized attorney.

The Registrar shall keep, or cause to be kept, on behalf of the Issuer at the principal operations center of the Registrar or such other location or locations as shall be provided in any Supplemental Indenture, the Register, in which, subject to such reasonable regulations as the Issuer, the Trustee, and the Registrar may prescribe, the Registrar shall cause Bonds to be registered and shall cause transfer Bonds to be registered as in this Article provided. Upon the registration or transfer of any such Bond and payment of any required fees, the Registrar shall issue in the name of the transferee a new fully registered Bond or Bonds of the same aggregate principal amount and maturity as the surrendered Bond.

The Issuer, the Trustee, and any other Fiduciary may deem and treat the person in whose name any Bond shall be registered in the Register as the absolute Owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price of and interest on such Bond and for all other purposes, and all such payments so made to any such Owner or upon the Owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and the Issuer, the Trustee, and any other Fiduciary shall not be affected by any notice to the contrary.

Section 309. ***Regulations with Respect to Exchanges and Transfers.*** Except as otherwise provided in any Supplemental Indenture, in all cases in which the privilege of exchanging or transferring Bonds is exercised, the Issuer shall execute and the Trustee or the duly authorized Authenticating Agent shall authenticate and deliver Bonds in accordance with the provisions of this Master Indenture. All registered Bonds surrendered in any exchange or transfer shall forthwith be canceled by the Trustee or the duly authorized Authentication Agent. For every such transfer of Bonds pursuant to Section 308 hereof, whether temporary or definitive, the Issuer, the Trustee, the Registrar, and any Authenticating Agent may make a charge sufficient to reimburse it or them for any expense, tax, fee or other governmental charge required to be paid with respect to such transfer. In addition for every exchange of Bonds (other than the exchange of temporary Bonds for definitive Bonds), the Issuer, the Trustee, the Registrar, and any Authenticating Agent may make reasonable charges to cover the costs of printing Bonds including any Trustee's, Registrar's, or Authenticating Agent's charges in connection therewith. The payment of the sum or sums provided in this Section shall be made by the Owner requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The Registrar shall not be required to transfer or exchange Bonds for a period of 15 days next preceding the selection of Bonds for redemption or to transfer or exchange any Bonds called for redemption.

Section 310. ***Bonds Mutilated, Destroyed, Stolen or Lost.*** In case any Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer shall execute, and thereupon the Trustee or duly authorized Authenticating Agent shall authenticate and deliver, a new Bond of like Series, maturity date, principal amount and interest rate as the Bond so mutilated, lost, stolen or destroyed, provided that (i) in the case of any mutilated Bond, such Bond is first surrendered to the Trustee or duly authorized Authenticating Agent, (ii) in the case of any lost, stolen or destroyed Bond, there is first furnished evidence of such loss, theft or destruction satisfactory to the Issuer and the Trustee or duly authorized Authenticating Agent together with indemnity satisfactory to the Issuer and the Trustee or duly authorized Authenticating Agent, (iii) all other reasonable requirements of the Issuer and the Trustee or duly authorized Authenticating Agent are complied with, and (iv) expenses in connection with such transaction are paid by the Owner. Except as provided in Section 309 hereof, all Bonds so surrendered to the Trustee shall be canceled by it. Any such new Bonds issued pursuant to this Section in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Issuer, whether or not the Bonds alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and shall be equally secured by

and entitled to equal and proportionate benefits in the Trust Estate with all other Bonds issued under this Master Indenture, to the same extent provided herein.

Section 311. ***Temporary Bonds.*** Until the definitive Bonds of any Series are prepared, the Issuer may execute, in the same manner as is provided in Section 306 hereof, and, upon the request of the Issuer, the Trustee or any Authenticating Agent shall authenticate and deliver, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds except as to denomination, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in authorized denominations as provided in a Supplemental Indenture, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The Issuer at its own expense shall prepare and execute and, upon the surrender of such temporary Bonds, the Trustee or any Authenticating Agent shall authenticate and, without charge to the Owner thereof, deliver in exchange therefor, definitive Bonds, of the same aggregate principal amount and Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to this Master Indenture.

If the Issuer shall authorize the issuance of temporary Bonds in more than one denomination, the Owner of any temporary Bond or Bonds may, at said Owner's option, surrender the same to the Trustee in exchange for another temporary Bond or Bonds of like aggregate principal amount and Series and maturity of any other authorized denomination or denominations, and thereupon the Issuer shall execute and the Trustee or Authenticating Agent shall authenticate and, in exchange for the temporary Bond or Bonds so surrendered and upon payment of the taxes, fees and charges as provided for in Section 309 hereof, shall deliver a temporary Bond or Bonds of like aggregate principal amount, Series and maturity in such other authorized denomination or denominations as shall be requested by such Owner.

All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Trustee.

Section 312. ***Cancellation and Destruction of Bonds.*** Except as otherwise provided in this Master Indenture or any Supplemental Indenture, all Bonds paid in full, either at or before maturity, or purchased pursuant to Section 507 hereof, shall be delivered to the Trustee when such payment or purchase is made, and such Bonds shall thereupon be promptly canceled. Bonds so canceled may at any time be destroyed by the Trustee, who shall execute a certificate of destruction in duplicate by the signature of one of its authorized signatories describing the Bonds so destroyed, and one executed certificate shall be filed with the Issuer and the other executed certificate shall be retained by the Trustee.

ARTICLE IV

REDEMPTION OF BONDS

Section 401. ***Privilege of Redemption and Redemption Price.*** Bonds subject to redemption prior to maturity pursuant to a Supplemental Indenture shall be redeemable, upon notice as provided in this Article unless a different notice provision is provided for in a Supplemental Indenture, at such Redemption Dates, at such Redemption Prices and upon such terms in addition to the terms contained in this Article, as may be specified in the Supplemental Indenture authorizing such Series of Bonds.

Section 402. ***Redemption at the Option of the Issuer.*** In the case of any redemption of Bonds at the option of the Issuer, which redemption may be undertaken only with the prior written consent of an Authorized Department Representative, an Authorized Issuer Representative shall give written notice to the Trustee and any Paying Agent of its election or direction so to redeem, of the Redemption Date, of the Series, and of the principal amounts of the Bonds of each maturity of such Series to be redeemed (which Series, maturities, and principal amounts thereof to be redeemed shall be determined by the Issuer in its sole discretion, subject to any limitations with respect thereto as are contained in Section 404 of this Master Indenture). Such notice shall be given at least two business days prior to the date on which notice of redemption is required to be given to the Owners of the Bonds to be redeemed or within such shorter period as shall be provided by Supplemental Indenture. In the event notice of redemption shall have been given as provided in Section 405 hereof, and provided that any conditions to redemption stated in such notice have been satisfied, there shall be paid on or before the Redemption Date to the Trustee for transfer to the Paying Agent an amount which, in addition to other moneys, if any, available therefor held by the Trustee or Paying Agent, will be sufficient to redeem on the Redemption Date at the Redemption Price, plus interest accrued and unpaid to the Redemption Date, all of the Bonds to be redeemed.

Section 403. ***Redemption Otherwise Than at the Option of the Issuer.*** Whenever by the terms of this Master Indenture or any Supplemental Indenture the Trustee is required or authorized to redeem Bonds otherwise than at the option of the Issuer, the Trustee shall select the Bonds to be redeemed, give the notice of redemption and transfer, out of moneys available therefor, the Redemption Price thereof, plus interest accrued and unpaid to the Redemption Date, to the Paying Agent in accordance with the terms of this Master Indenture and any Supplemental Indenture.

Section 404. ***Selection of Bonds to be Redeemed.*** If less than all of the Bonds are to be redeemed, the Series and the maturities within any Series to be redeemed or their method of selection shall be determined by the Issuer. If less than all of the Bonds of a single maturity within the same Series are to be redeemed, the Bonds of such Series to be redeemed will be selected by lot or other random method by the Trustee in such a manner as the Trustee may determine unless otherwise provided by the Supplemental Indenture authorizing that Series of Bonds.

Section 405. ***Notice of Redemption.*** Notice of redemption of Bonds shall be given in accordance with this Section. When and only when the Trustee shall receive notice from the Issuer of its election or direction to redeem Bonds pursuant to Section 402 hereof, together with the written consent thereto by an Authorized Department Representative, and when redemption of Bonds is authorized or required pursuant to Section 403 hereof, the Trustee shall give notice, in the name of the Issuer, of the redemption of such Bonds, which notice shall specify the Series and maturities of the Bonds to be redeemed, the Redemption Date and the place or places where amounts due upon such Redemption Date will be payable and, if less than all of the Bonds of any like Series and maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notices shall also specify the respective portions of the principal amounts thereof to be redeemed. Such notice shall further state that on such Redemption Date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof, in the case of Bonds to be redeemed in part only, together with interest accrued to the Redemption Date, and that from and after such date interest thereon and Accreted Value thereof shall cease to accrue and be payable. Unless the Supplemental Indenture authorizing issuance of a Series of Bonds provides otherwise, the Trustee shall mail a copy of such notice, first class mail postage prepaid, not less than 30 days nor more than 60 days before the Redemption Date (or such shorter period as shall be provided by Supplemental Indenture), to the Owners of any registered Bonds or portions of registered Bonds which are to be redeemed, at their last addresses, if any, appearing upon the Register and to any Nationally Recognized Municipal Securities Information Repositories in existence on the date such notice is mailed. The Trustee's obligation to give notice required by this Section shall not be conditioned upon the prior payment to the Trustee of funds sufficient to pay the Redemption Price on the Bonds to which such notice relates or interest thereon to the Redemption Date and may be given in conditional form, specifying that the redemption is subject to receipt by the Trustee of moneys sufficient to pay the Redemption Price of and accrued interest on the Bonds to be redeemed or to other conditions. The failure to give notice required by this Section to any Owner of any Bond or portion thereof to be redeemed shall not affect the validity of any proceedings for the redemption of any other Bond for which such notice has been duly given.

Section 406. ***Payment of Redeemed Bonds.*** Unless the Supplemental Indenture authorizing issuance of a Series of Bonds provides otherwise, notice having been given in the manner provided in Section 405 hereof, the Bonds or portions thereof so called for redemption shall, provided that any conditions specified in such notice are satisfied, become due and payable on the Redemption Date so designated at the Redemption Price, plus interest accrued and unpaid to the Redemption Date, and upon presentation and surrender thereof at the office specified in such notice. Except for any Series of Bonds that provides for a method of reduction of principal amount without surrender of such Bonds, if there shall be called for redemption less than all of the principal of any Bond, the Issuer shall execute and the Trustee or the Authenticating Agent shall authenticate, upon the surrender of such Bond, without charge to the Owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of like Series and maturity in any authorized denomination. If, on the Redemption Date, moneys for the

redemption of all the Bonds or portions thereof of any like Series and maturity to be redeemed, together with interest to the Redemption Date, shall be held by the Trustee or Paying Agent so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the Redemption Date interest on the Bonds or portions thereof of such Series and maturity so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the Redemption Date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

Section 407. ***Modification by Supplemental Indenture.*** Except for the requirement of the written consent from an Authorized Department Representative, the provisions of this Article may be modified by any Supplemental Indenture in respect of any Series of Bonds authorized thereby, and in the event of any conflict with the provisions hereof, the provisions of such Supplemental Indenture shall control in respect of any Series of Bonds authorized thereby.

ARTICLE V

ESTABLISHMENT OF FUNDS AND APPLICATION THEREOF

Section 501. ***Security for Bonds.*** The Bonds are payable from and secured by the Trust Estate in accordance with the terms hereof.

Section 502. ***Establishment of Funds and Accounts.*** The following Funds and Accounts are hereby established, all of which shall be held by the Trustee and, with the exception of the Rebate Fund, the Series 1998D Bond Proceeds Account and the Department Capital Cost Savings Account and the Retainage Account, shall constitute a part of the Trust Estate:

1. "Route 895 Connector Toll Road Revenue Bond Construction Fund," and within such Fund the "Series 1998D Bond Proceeds Account"(within such Account the "Pre-Opening Expense Subaccount"), the "Department Capital Cost Savings Account" and the "Retainage Account" (which Construction Fund may include such additional special Accounts and Subaccounts therein to be held by the Trustee or any other designated Fiduciary in accordance with Section 503 hereof);

2. "Route 895 Connector Toll Road Revenue Bond Revenue Fund;"

3. "Route 895 Connector Toll Road Revenue Bond Debt Service Fund," and within such Fund the "Senior Bonds Debt Service Account," the "First Tier Subordinate Bonds Debt Service Account" and the "Second Tier Subordinate Bonds Debt Service Account;"

4. "Route 895 Connector Toll Road Revenue Bond Debt Service Reserve Fund," and within such Fund the "Senior Bonds Debt Service Reserve Account" and the "First Tier Subordinate Bonds Debt Service Reserve Account";

5. "Route 895 Connector Toll Road Revenue Bond Renewal and Replacement Fund";

6. "Route 895 Connector Toll Road Revenue Bond Surplus Fund";

7. "Route 895 Connector Toll Road Revenue Bond Rebate Fund".

Section 503. ***Construction Fund.***

1. There shall be paid into the Construction Fund the amounts required to be so paid by the provisions of this Master Indenture and any Supplemental Indenture. There may also be paid into the Construction Fund, at the option of the Issuer but only with the prior written consent of an Authorized Department Representative, any moneys received by the Issuer from any source unless otherwise required to be applied by this Master Indenture or any Supplemental Indenture. Casualty insurance proceeds shall be deposited into the Construction Fund and made available to FD/MK prior to the Final Acceptance Date and to the Department after such date to pay costs of repairing and replacing the damaged or destroyed portions of the Project.

2. Separate, segregated accounts and subaccounts may be created within the Construction Fund and held by the Trustee or any other Fiduciary in the manner provided in this Master Indenture or in any Supplemental Indenture. Money held in such accounts and subaccounts shall be held separately from other moneys in the Construction Fund and shall be disposed of only in the manner provided in this Master Indenture or in the Supplemental Indenture pursuant to which such accounts and subaccounts are created. Without limiting the generality of the foregoing, such separate, segregated accounts and subaccounts, and all funds, investments thereof and investment income earned thereon (other than the Retainage Account and the Department Capital Cost Savings Account), may be exclusively pledged (and a lien and security interest therein may be exclusively granted) to secure for any period of time the payment of principal and Redemption Price of any or all of any such Series of Bonds issued pursuant to such Supplemental Indenture, and interest thereon to any date, all as may be more fully provided in such Supplemental Indenture, in which case such pledge, lien and security interest will be prior and superior to the lien and pledge on the Construction Fund (other than the Retainage Account and the Department Capital Cost Savings Account) granted by this Master Indenture securing the Bonds generally. The Issuer authorizes the Trustee to make payments from the Construction Fund as provided for herein.

3. Amounts deposited in the Series 1998D Bond Proceeds Account (other than the Pre-Opening Expense Subaccount) shall be used solely to pay Non-Construction Costs of the Project as permitted by the SIB Loan Agreement, and shall be distributed to, or to the order of, FD/MK for such purpose only at the written request of an Authorized FD/MK Representative and the written approval of an Authorized Department Representative on the Draw Request in the form attached hereto as Exhibit 1, appropriately completed. Amounts deposited in the Pre-Opening Expense Subaccount of the Series 1998D Bond Proceeds Account shall be used solely to pay pre-opening expenses of the Issuer included in the Annual Budget, and shall be distributed to, or to the order of, the Issuer for such purpose only at the written request of an Authorized

Issuer Representative and the written approval of an Authorized Department Representative on the Pre-Opening Expense Draw Request in the form attached hereto as Exhibit 2, appropriately completed. To the extent that amounts are available in the Series 1998D Bond Proceeds Account for such purpose, Non-Construction Costs of the Project shall be paid first from the Series 1998D Bond Proceeds Account. Non-Construction Costs of the Project in excess of the amounts on deposit in the Series 1998D Bond Proceeds Account and other Costs of the Project shall be paid solely from the Construction Fund at the written request of an Authorized FD/MK Representative and the written approval of an Authorized Department Representative in the Draw Request in the form attached hereto as Exhibit 1, appropriately completed. When amounts are drawn from the Construction Fund for Costs of the Project which require retainage under the Design-Build Contract, the Draw Request form filed shall indicate under "Adjustments and Deductions" the amount of such retainage and the Trustee shall transfer from the Construction Fund to the Retainage Account therein the amount of such retainage. Disbursements (plus earnings thereon) from the Retainage Account shall be made to FD/MK or the Department only when the Trustee receives a written request from an Authorized FD/MK Representative and written approval from an Authorized Department Representative setting forth the amount to be disbursed and the payee. The Trustee is authorized to apply amounts in the Retainage Account to pay any liquidated damages that may be due from FD/MK in the Design-Build Contract, upon receipt of written notice from the Department that liquidated damages are due under the Design-Build Contract. The Retainage Account shall not be available to any Person for any other purpose and shall not be part of the Trust Estate. Earnings on the Series 1998D Bond Proceeds Account shall be transferred monthly to the Department.

4. Upon receipt of a written certificate from the Department setting forth the Department's share of the savings with respect to the Bridge Foundation Work as provided in the Design-Build Contract, the Trustee shall transfer an amount equal to such share of the savings to the Department Capital Cost Savings Account. In addition, the Trustee shall transfer to the Department Capital Cost Savings Account surplus moneys as and when described in subsection 6 of this Section 503. At the written request and option of the Department, amounts in the Department Capital Cost Savings Account shall be paid to the Department for one or more of the following: (a) mandatory prepayment of the Series 1998D Bond (except to the extent that proceeds of such Series 1998D Bonds were deposited into the Pre-Opening Expense Subaccount); (b) payment of the Issuer's obligations to pay for preliminary design work with respect to the Project pursuant to Section 6.5(b) of the Comprehensive Agreement in an amount up to a maximum of $9,433,556, plus any applicable interest; (c) reimbursement of Department expenditures on Directed Changes under the Design-Build Contract; (d) repayment of Department advances for completion of the Project or for curing Events of Default; (e) capital costs relating to the Project including Project Enhancements; and (f) costs relating to carrying out any other purpose relating to the Project and now or hereafter authorized or permitted by law, but only upon delivery to the Trustee of an opinion of Bond Counsel that such use under this subsection (f) will not impair the exclusion of interest on the Tax-Exempt Bonds from gross income for Federal income tax purposes. The Department Capital Costs Savings Account shall not be available to any Person for any other purpose and shall not be part of the Trust Estate. Earnings on the Department Capital Costs Savings Account not applied to the foregoing purposes

shall be transferred to the Department upon its written request, from time to time, but not more often than monthly.

5. Except as otherwise provided by Supplemental Indenture, amounts in the Construction Fund shall be distributed to, or as directed by, FD/MK for such purpose only at the written request of an Authorized FD/MK Representative and the written approval of an Authorized Department Representative on the Draw Request in the form attached hereto as Exhibit 1, appropriately completed. The Trustee shall make payments as set forth in Draw Request or the Pre-Opening Expense Draw Request within 5 days after the Trustee receives the same. Notwithstanding the foregoing, to the extent that moneys in the Construction Fund have been deposited in an Account for the purpose of paying interest on any Series of Bonds, the Trustee may make the transfers of such moneys to the appropriate Account of the Bond Debt Service Fund without any such Draw Request.

6. When the Project shall have achieved Final Acceptance under the Design-Build Contract and when all Costs of the Project shall have been paid or reasonable provision therefor shall have been made, an Authorized FD/MK Representative, upon receipt from the Consulting Engineer of a notice so stating, shall certify the Project to be complete as of the date therein set forth. Upon such certification, any surplus moneys remaining in the Construction Fund (including the Series 1998D Bond Proceeds Account) and not otherwise required to be maintained therein by any Supplemental Indenture shall be transferred to the Department Capital Cost Savings Account for use and application by the Department as provided in subsection 4 of this Section 503.

Section 504. ***Revenue Fund.*** Except as otherwise provided in subsection 1 of Section 503 or by Supplemental Indenture, all Revenues shall be delivered to the Trustee immediately upon receipt by or on behalf of the Issuer and shall be deposited by the Trustee in the Revenue Fund as soon as practicable upon receipt by the Trustee and amounts in the Revenue Fund shall be used for the purposes and in the order of priority set forth in Section 505 hereof.

Section 505. ***Flow of Funds.***

1. Except as otherwise provided in subsections 3 and 4 of this Section 505, subsection 2 of Section 702 hereof (relating to Related Financial Transactions) or by Supplemental Indenture, amounts in the Revenue Fund shall be applied on or before the last day of each month for the following purposes in the priority in which listed:

First, there shall be transferred to the Rebate Fund amounts which, when added to other amounts in the Rebate Fund, shall equal the amount required to be on deposit therein pursuant to any Tax Compliance Certificate delivered in connection with the issuance of each Series of Tax-Exempt Bonds.

Second, unless provision for such payments from the Construction Fund or otherwise has been made as contemplated by Section 503 hereof or otherwise, on or

before the last day of each month, or at such other times as shall be set forth in any Supplemental Indenture, there shall be transferred to the Senior Bonds Debt Service Account of the Debt Service Fund amounts which, when added to other amounts in the Senior Bonds Debt Service Account of the Debt Service Fund and available for such purposes, will provide for the accumulation, in substantially equal monthly installments, or otherwise as may be provided in any Supplemental Indenture, of the amounts required to pay the sum of:

(1) any interest to become due and payable on each Series of Outstanding Senior Bonds on the next Interest Payment Date for such Series; and

(2) any Principal Installments to become due and payable on any Series of Outstanding Senior Bonds on or before the next date (within the next 12 months) on which such Principal Installment is payable; and

(3) to the extent and in the manner provided by any Supplemental Indenture, any amounts required to be paid to any bank, securities dealer, financial institution or other Person in connection with its payment of the principal and Redemption Price of and interest on any Series of Senior Bonds or for any services rendered by it in connection with legal services or otherwise, as may be provided by such Supplemental Indenture.

Third, if the Senior Bonds Debt Service Reserve Account of the Debt Service Reserve Fund contains less than the Senior Bonds Debt Service Reserve Account Requirement, there shall be transferred into the Senior Bonds Debt Service Reserve Account of the Debt Service Reserve Fund, an amount equal to 1/24 of the Senior Bonds Debt Service Reserve Account Requirement or the amount needed to attain the Senior Bonds Debt Service Reserve Account Requirement, whichever is lesser, which transfers shall continue until the Senior Bonds Debt Service Account of the Debt Service Reserve Fund contains the Senior Bonds Debt Service Reserve Account Requirement.

Fourth, unless provision for such payments from the Construction Fund or otherwise has been made as contemplated by Section 503 hereof or otherwise, on or before the last day of each month, or at such other times as shall be set forth in any Supplemental Indenture, there shall be transferred to the First Tier Subordinate Bonds Debt Service Account of the Debt Service Fund amounts which, when added to other amounts in the First Tier Subordinate Bonds Debt Service Account of the Debt Service Fund and available for such purposes, will provide for the accumulation, in substantially equal monthly installments, or otherwise as may be provided in any Supplemental Indenture, of the amounts required to pay the sum of:

(1) any interest to become due and payable on each Series of Outstanding First Tier Subordinate Bonds on the next Interest Payment Date for such Series; and

(2) any Principal Installments to become due and payable on any Series of Outstanding First Tier Subordinate Bonds on or before the next date (within the next 12 months) on which such Principal Installment is payable; and

(3) to the extent and in the manner provided by any Supplemental Indenture, any amounts required to be paid to any bank, securities dealer, financial institution or other Person in connection with its payment of the principal and Redemption Price of and interest on any Series of First Tier Subordinate Bonds or for any services rendered by it in connection with legal services or otherwise, as may be provided by such Supplemental Indenture.

Fifth, if the First Tier Subordinate Bonds Debt Service Reserve Account contains less than the First Tier Subordinate Bonds Debt Service Reserve Account Requirement, there shall be transferred into the First Tier Subordinate Bonds Debt Service Reserve Account, an amount equal to 1/24 of the First Tier Subordinate Bonds Debt Service Reserve Account Requirement or the amount needed to attain the First Tier Subordinate Bonds Debt Service Reserve Account Requirement, whichever is lesser, which transfers shall continue until the First Tier Subordinate Bonds Debt Service Reserve Account contains the First Tier Subordinate Bonds Debt Service Reserve Account Requirement.

Sixth, (i) there shall be transferred to the Issuer the amounts required by Section 513, and (ii) after such transfers to the Issuer, remaining amounts in the Revenue Fund shall be paid to the Department up to the amount of the Department's invoice for Current Expenses previously incurred during such Fiscal Year or, in the case of the first complete Fiscal Year after the Opening Date, Current Expenses incurred prior to the Opening Date and not previously reimbursed; provided, however, with respect to transfers from the Revenue Fund, made in July in any year, such transfers shall include Current Expenses for the previous Fiscal Year or, in the case of the July following the first complete Fiscal Year after the Opening Date, Current Expenses incurred prior to the Opening Date that have not previously been reimbursed.

Seventh, upon delivery to the Trustee of a written certificate of an Authorized Representative of the Department, there shall be transferred to the Department an amount which will reimburse it for costs of Extraordinary Maintenance and Repair for which it has not received payment from the Renewal and Replacement Fund, the Department Capital Costs Saving Account, the Surplus Fund or from casualty insurance proceeds in the Construction Fund.

Eighth, if the Renewal and Replacement Fund contains less than the Renewal and Replacement Fund Requirement, the amount needed to attain the Renewal and Replacement Fund Requirement.

Ninth, unless provision for such payments from the Construction Fund or otherwise has been made as contemplated by Section 503 or otherwise, and subject to

subsection 6 of Section 507, on or before the last day of each month, or at such other times as shall be set forth in any Supplemental Indenture, there shall be transferred to the Second Tier Subordinate Bonds Debt Service Account of the Debt Service Fund all remaining amounts, until payment in full of the principal of and accrued interest on the Second Tier Subordinate Bonds Outstanding.

Tenth, there shall be transferred to the Department in payment of the Issuer's obligation to pay for preliminary design work with respect to the Project pursuant to Section 6.5(b) of the Comprehensive Agreement and in repayment of amounts advanced by the Department for Discretionary Directed Changes as provided in Section 6.5(c) of the Comprehensive Agreement all remaining amounts, until payment in full of such obligations.

Eleventh, money remaining in the Revenue Fund shall be used to make or provide for all deposits, payments or transfers required by any agreement or other instrument creating or evidencing any obligation of the Issuer which is not otherwise provided for in this Section, at the time and in the manner provided for in such agreement or instrument.

Twelfth, any money remaining in the Revenue Fund shall be transferred to the Surplus Fund.

2. Whenever the amount on deposit in the Renewal and Replacement Fund is in excess of the Renewal and Replacement Fund Requirement, the excess on deposit in such Fund shall be transferred to the Revenue Fund and applied as provided in subsection 1 of this Section. Whenever the amount on deposit in the Senior Bonds Debt Service Reserve Account is in excess of the Senior Bonds Debt Service Reserve Account Requirement, the excess on deposit in such Account shall be transferred to the Revenue Fund and applied as provided in subsection 1 of this Section.

3. Notwithstanding anything in this Indenture to the contrary, if Bonds have been issued and delivered to the Department or CTB as provided for in subsection 2 of Section 720, before any other transfers from the Revenue Fund are made, such Bonds and the interest thereon shall be paid in full from funds in the Revenue Fund.

4. Notwithstanding anything in this Section 505 to the contrary, in the event that the Department owes any amount to FD/MK pursuant to Section 14.5 of the Design-Build Contract, as evidenced by a certificate signed by an Authorized Department Representative and an Authorized FD/MK Representative, and to the extent there are not sufficient funds in the Construction Fund to pay such amount, such amount shall be transferred by the Trustee to FD/MK from moneys in the Revenue Fund before application of any Revenues as required by clauses "first" through "twelfth" of subsection 1 and by subsection 3 of this Section 505.

5. Issuer hereby irrevocably instructs and authorizes Trustee to remit directly to the Department, when due, any and all amounts to which the Department or CTB is entitled under this subsection 1 of this Section 505, without necessity or requirement for further instruction or approval from Issuer, based upon written invoices and certifications meeting the requirements of this Section which any Authorized Department Representative signs and submits to Trustee from time to time.

Section 506. ***Other Transfers to Debt Service Fund and Debt Service Reserve Fund; Drawings Under Contractor Loan Agreement.***

1. Notwithstanding anything in this Article or elsewhere in this Master Indenture to the contrary, if on any date there are not sufficient moneys in the Revenue Fund to make the transfers required by Section 505 hereof to the Senior Bonds Debt Service Account and required deposits to the Senior Bonds Debt Service Reserve Account on such date, moneys shall be transferred first to the Senior Bonds Debt Service Account and then to the Senior Bonds Debt Service Reserve Account from the following sources in an amount which, together with the amount to be transferred thereto from the Revenue Fund on such date, will result in the Senior Bonds Debt Service Account and the Senior Bonds Debt Service Reserve Account having the balance required to be on deposit therein pursuant to Section 505 hereof:

First, from the Surplus Fund; and

Second, from the Senior Bonds Debt Service Reserve Account.

2. Notwithstanding anything in this Article or elsewhere in this Master Indenture to the contrary, if on any date there are not sufficient moneys in the Revenue Fund to make the transfers required by Section 505 hereof to the First Tier Subordinate Bonds Debt Service Account and required deposits to the First Tier Subordinate Debt Service Reserve Account on such date, moneys shall be transferred first to the First Tier Subordinate Bonds Debt Service Account and then to the First Tier Subordinate Debt Service Reserve Account from the following sources in an amount which, together with the amount to be transferred thereto from the Revenue Fund on such date, will result in the First Tier Subordinate Bonds Debt Service Account and the First Tier Subordinate Debt Service Reserve Account having the balance required to be on deposit therein pursuant to Section 505 hereof:

First, subject to subsection 4 of this Section, from the Surplus Fund; and

Second, from the First Tier Subordinate Bonds Debt Service Reserve Account.

3. To the extent there are insufficient moneys on deposit in the Funds to make the transfers provided for in subsections 1 and 2 of this Section with respect to the Series 1998A Bonds, the Series 1998B Bonds and the Series 1998C Bonds (in each case, as defined in the First Supplemental Indenture hereto), the Trustee shall make drawings under the Contractor Loan Agreement (i.e., the Series 1998E Bond) in an amount (not to exceed $5,000,000 in principal

amount at any one time outstanding thereunder) sufficient to cause the Senior Bond Debt Service Account and the First Tier Subordinate Bonds Debt Service Account to have on deposit therein the balance required by Section 505 to make such transfers. Any such drawing shall be requested by the Trustee in writing on the Contractor Bond Draw Request form attached hereto as Exhibit 3, appropriately completed and presented to FD/MK in accordance with the Contractor Loan Agreement. To the extent necessary for interest on the Series 1998E Bond to be excluded from gross income for federal income tax purposes, in the opinion of Bond Counsel, the Trustee will apply all or part of the proceeds of any drawing under such Bond to the payment of principal installments of the Public Debt as directed by the holder of the Series 1998E Bond; provided that this sentence shall not be construed to reduce the total amount entitled to be drawn under the Contractor Loan Agreement.

4. If there are not sufficient amounts to make the transfers required in both subsection 1 of this Section and subsection 2 of this Section, then the transfers required in subsection 1 shall be made first.

Section 507. ***Debt Service Fund.***

1. There shall be paid out of the Debt Service Fund on or before each Interest Payment Date for any of the Bonds, the amount required for the interest payment on such date, and there shall be paid out of the Debt Service Fund on or before each Principal Installment due date, the amount required for the Principal Installment payable on such due date; provided, however, that if any special fund, account or subaccount has been created for the payment of capitalized interest on the Bonds or any Series thereof, any amounts transferred to the Debt Service Fund from such special fund, account or subaccount shall be used to pay such interest prior to the use of any other amounts in the Debt Service Fund for such purpose. On or before any Redemption Date for Bonds to be redeemed, there shall also be paid out of the Debt Service Fund, from available amounts deposited therein from time to time, the Redemption Price of and interest on the Bonds then to be redeemed.

2. Amounts in the Debt Service Fund with respect to any Sinking Fund Installment (together with amounts in the Debt Service Fund with respect to interest on the Bonds for which such Sinking Fund Installment was established) shall be applied to the redemption of Bonds of the Series and maturity for which such Sinking Fund Installment was established in an amount not exceeding that necessary to complete the retirement of such Sinking Fund Installment as hereinafter provided. Unless otherwise provided in any Supplemental Indenture, as soon as practicable after the forty-fifth day preceding the due date of any such Sinking Fund Installment, the Trustee shall proceed to call for redemption, by giving notice as provided in Section 405 hereof, on such due date Bonds of the Series and maturity for which such Sinking Fund Installment was established (except in the case of Bonds maturing on a Sinking Fund Installment date) in such amount as shall be necessary to complete the retirement of such Sinking Fund Installment; provided that for this purpose the principal amount of Bonds of such Series and maturity delivered by the Issuer to the Trustee for cancellation not less than 60 days prior to such due date, as provided in subsection 3 of this Section, shall be credited against the amount

of such Sinking Fund Installment. Such notice (which may be given in conditional form as provided in Section 405) shall be given regardless whether moneys therefor shall have been deposited in the Debt Service Fund and without any instructions from the Issuer.

3. Upon any purchase pursuant to subsection 4 of this Section, or any redemption pursuant to any redemption provision, other than a mandatory sinking fund redemption provision, of this Master Indenture or any Supplemental Indenture, of Bonds of any Series and maturity for which Sinking Fund Installments have been established, the principal amount of such Bonds so purchased or redeemed shall be credited toward the next Sinking Fund Installment or Installments.

4. The Trustee shall, at any time at the direction of the Issuer, apply amounts available in the Debt Service Fund for the payment of any Principal Installments to pay the principal portion of Bonds of any Series and maturity for which such Sinking Fund Installment has been established, which Bonds may be purchased on the open market at a price (excluding accrued interest to the purchase date but including any brokerage or other charges) no greater than the applicable Redemption Price of such Bonds.

5. Notwithstanding any other provision of this Section or any other provision of this Master Indenture, amounts in the Senior Bonds Account or the First Tier Subordinate Bonds Account or the Second Tier Subordinate Bonds Account of the Debt Service Fund shall be applied only to the payment of Debt Service on the Bonds of the same designation, in each case in the manner and at the times provided in subsections 1, 2, 3 and 4 of this Section.

6. Amounts on deposit in the Second Tier Subordinate Debt Service Account shall be paid monthly to the holders of the Second Tier Subordinate Bonds pro rata based on the respective outstanding principal amounts of such Bonds as shown on the Register, provided that, if the Department delivers a certificate to the Trustee that it claims to be entitled under Section 17.3(e) of the Comprehensive Agreement to all or any part of the amount otherwise transferable to the Second Tier Subordinate Bonds Account with respect to the Contractor Bond, the Trustee shall (a) pay to the Department the amount claimed, if accompanied by the written consent of an Authorized FD/MK Representative or by an order or final judgment entered by any court or (b) if subsection (a) does not apply, interplead into court any such amount, until final resolution of such claim at which time the Trustee shall pay such amount to FD/MK or the Department as determined by such final resolution.

Section 508. ***Debt Service Reserve Fund.***

1. If on any date, after giving effect to all transfers pursuant to Sections 505 and 506 hereof, the amount in the Debt Service Fund shall be less than the amount required to make all payments of principal and Redemption Price of and interest on the Bonds then due and payable, the Trustee shall transfer amounts from the Debt Service Reserve Fund to the extent necessary to make such payments.

2. When the amount in the Debt Service Reserve Fund, together with the amounts in the Debt Service Fund, is sufficient to fully pay all Outstanding Bonds in accordance with their terms (including principal or Redemption Price and interest), the funds on deposit in the Debt Service Reserve Fund may, at the direction of the Issuer, be applied to pay the principal and Redemption Price of and interest on all Outstanding Bonds.

3. Except as otherwise provided herein, whenever the amount in the Debt Service Reserve Fund exceeds the Debt Service Reserve Fund Requirement, the Trustee shall transfer such excess to the Debt Service Fund.

4. Notwithstanding any other provision of this Section or any other provision of this Master Indenture, (i) the Senior Bonds Debt Service Reserve Account and the First Tier Subordinate Bonds Debt Service Reserve Account of the Debt Service Reserve Fund shall be maintained and administered as separate accounts for the purposes of securing, and shall be applied only to the payment of, the principal and Redemption Price of and interest on Bonds of the same designation and (ii) to the extent required to make such payments, moneys from each such Account shall be transferred to the Account of the Debt Service Fund of the same designation.

5. Notwithstanding any other provision hereof or of any Supplemental Indenture, the Trustee at the written direction of the Issuer at any time shall substitute for the cash deposit in the Debt Service Reserve Fund or any Account or Subaccount thereof, a letter of credit, surety bond, insurance policy, agreement guaranteeing payment or other undertaking by a financial institution to insure that cash in the amount otherwise required to be maintained therein will be available to the Trustee as needed, provided that the Trustee receives written evidence (or other evidence satisfactory to the Trustee) from each Rating Agency that such substitution will not, by itself, result in a withdrawal of or reduction in its rating of any Bonds. Upon any such substitution, the cash deposit in such Fund, Account or Subaccount shall be transferred to the Construction Fund or the Revenue Fund, as directed by the Issuer.

Section 509. ***Renewal and Replacement Fund.*** Moneys held in the Renewal and Replacement Fund shall be distributed to, or to the order of, the Issuer, but only at the written request of an Authorized Department Representative, to be applied solely for the purpose of paying costs of Extraordinary Maintenance and Repair and environmental remediation or mitigation for the Project for which the moneys available to the Issuer for this purpose are insufficient.

Section 510. ***Surplus Fund.*** Moneys held in the Surplus Fund shall be transferred to the Debt Service Fund to the extent required by Section 506 hereof and otherwise shall be distributed as directed by an Authorized Department Representative: (i) on or prior to the Final Acceptance Date, for application to the payment of Costs of the Project relating to portions of the Project that have been constructed, are under construction or are contiguous to portions of the Project that have been constructed or are under construction; and (ii) after the Final Acceptance Date, for any purpose relating to the Project and now or hereafter authorized or

permitted by law, including but not limited to (A) the redemption or defeasance of Bonds, and (B) reimbursement of Department expenditures on Department Directed Changes under the Design-Build Contract, repayment of Department advances for completion of the Project or for curing Events of Default, for costs relating to Compliance Orders, for costs of Extraordinary Maintenance and Repair not previously reimbursed to the Department and for design, acquisition and construction of Project Enhancements or improvements respecting Reserved Rights. Nothing herein shall prohibit the Issuer from depositing directly into the Surplus Fund any of its funds that, prior to such deposit, are not part of the Trust Estate. Notwithstanding the foregoing, the aggregate amount transferred to the First Tier Subordinate Debt Service Account shall not exceed 50% of the sum of the amount on deposit in the Surplus Fund on the first date (the "First Distribution Date") on which any amounts are transferred to the First Tier Subordinate Debt Service Account and any amounts transferred to the Surplus Fund pursuant to Section 505 hereof at any time after the First Distribution Date.

Section 511. ***Rebate Fund.*** Moneys shall be deposited into the Rebate Fund pursuant to Section 505 hereof in the amount required pursuant to any Tax Compliance Certificate delivered by the Issuer in connection with the issuance of any Series of Tax Exempt Bonds. Notwithstanding any other provision hereof or of any other instrument, moneys on deposit in the Rebate Fund shall not be part of the Trust Estate and, except as otherwise provided in this Section, moneys on deposit in the Rebate Fund shall be used solely for the purpose of paying amounts due to the United States of America with respect to the Bonds pursuant to Section 148(f) of the Code. Moneys on deposit in the Rebate Fund shall be forwarded to the United States Treasury at the Issuer's direction at the times and in the amounts set forth in the Tax Compliance Certificates. If the moneys on deposit in the Rebate Fund are insufficient for the purpose thereof, the Issuer shall transfer moneys in the amount of the insufficiency to the Rebate Fund from any and all sources available to it that constitute part of the Trust Estate. The Trustee is authorized to make transfers of the amount needed to make rebate payments from any of the Funds created by the Indenture that constitute part of the Trust Estate. Upon receipt by the Issuer and the Trustee of an opinion of Bond Counsel or a certificate of a Rebate Analyst to the effect that the amount in the Rebate Fund is in excess of the amount required to be contained therein, such excess shall be transferred to the Revenue Fund.

Section 512. ***Modification by Supplemental Indenture.*** The provisions of this Article may be modified by any Supplemental Indenture in respect of any Series of Bonds authorized thereby, and in the event of any conflict with the provisions hereof the provisions of such Supplemental Indenture shall control in respect of any Series of Bonds authorized thereby; provided, however, that no such modification may have the effect of creating a priority for payment of one Series of Bonds over any other Series of Bonds, subject to the terms and provisions hereof and provided further that no modification to this Article V shall be permitted without the Department's consent.

Section 513. ***Issuer Cash Flow Account.*** The Issuer shall maintain, separate and apart from any Funds and Accounts established under Section 502, a bank account into which it shall deposit amounts received from the Trustee pursuant to clause "sixth" of subsection 1 of Section

505. At the end of each Fiscal Year, the Issuer shall furnish the Trustee with a bank statement showing the balance in such bank account. In any Fiscal Year, amounts shall be transferred to the Issuer under such clause "sixth" until the total amount transferred in such Fiscal Year together with the balance in such bank account at the end of the prior Fiscal Year equals $50,000. If at any time the Issuer delivers a certificate to the Trustee showing the balance in such bank account to be less than $25,000, there shall be further transferred to the Issuer from Revenues available for distribution under such clause "sixth" an amount sufficient to restore the balance in such bank account to $50,000. The Issuer shall use amounts in such bank account as provided in Section 8.4(e) of the Comprehensive Agreement and such bank account (and funds held therein) shall not be part of the Trust Estate.

ARTICLE VI

MONEYS HELD IN TRUST, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 601. ***Moneys Held in Trust.*** All moneys held by the Trustee under the provisions of this Master Indenture shall be deposited with the Trustee, and held in the name of the Trustee, in such capacity hereunder. All moneys deposited under the provisions of this Master Indenture with the Trustee shall be held in trust and applied only in accordance with the provisions of this Master Indenture and each of the Funds and Accounts established by this Master Indenture shall be a trust fund for the purpose of this Master Indenture.

Section 602. ***Deposits and Transfers.***

1. All moneys held by the Trustee under this Master Indenture may be placed on demand or time deposit, if and as directed by the Issuer, provided that such deposits shall permit the moneys so held to be available for use at the time when needed.

2. All moneys deposited with the Trustee shall be credited to the particular Fund or Account as required hereby.

3. Except as otherwise provided by Supplemental Indenture, any transfer required to be made from one Fund or Account to another Fund or Account held by the same Person may be made by book transfer of any moneys or investments or portions of investments without liquidating any investments in order to make such transfer unless the funds required to be transferred are needed to make payments out of the Fund or Account to which such funds were transferred at the time of transfer. Investments may also be exchanged between Funds and Accounts as permitted herein.

Section 603. *Investment of Funds.*

1. Moneys held in any Fund or Account to be held by the Trustee shall be invested and reinvested by the Trustee as promptly as practicable, in accordance with a Letter of Instructions and, to the fullest extent practicable, in Investment Securities. Notwithstanding anything herein to the contrary, Investment Securities in all Funds and Accounts shall mature, or the principal of and accrued interest on such Investment Securities shall be available for withdrawal without penalty, not later than such times as shall be necessary to provide moneys when needed for payment to be made from such Funds and Accounts. Notwithstanding the foregoing, moneys in the 1998D Bond Proceeds Account, the Department Capital Cost Savings Account and the Surplus Fund shall be invested as directed by the Department.

2. Except as otherwise provided in this subsection or by Supplemental Indenture, interest earned or profits realized from investing any moneys deposited in the Funds and Accounts or any Subaccount thereof shall until completion of construction be transferred to the Construction Fund and thereafter shall be transferred to the Revenue Fund and applied pursuant to subsection 1 of Section 505 hereof. Notwithstanding the foregoing:

(a) interest and profits from the Capitalized Interest Account, the Rebate Fund, the Series 1998D Bond Proceeds Account and the Department Capital Cost Savings Account and any Account or Subaccount of any of such Funds, Accounts or Subaccounts shall be retained in such Fund, Account or Subaccount;

(b) interest and profits from the Senior Bonds Debt Service Reserve Account shall be retained in the Senior Bonds Debt Service Reserve Account if and to the extent the amount on deposit in the Senior Bonds Debt Service Reserve Account is not equal to the Senior Bonds Debt Service Reserve Account Requirement;

(c) interest and profits from the First Tier Subordinate Bonds Debt Service Reserve Account shall be retained in the First Tier Subordinate Bonds Debt Service Reserve Account if and to the extent the amount on deposit in the First Tier Subordinate Bonds Debt Service Reserve Account is not equal to the First Tier Subordinate Debt Service Reserve Account Requirement;

(d) interest and profits from the Renewal and Replacement Fund shall be retained in the Renewal and Replacement Fund if and to the extent the amount on deposit in the Renewal and Replacement Fund is not equal to the Renewal and Replacement Fund Requirement;

(e) interest and profits from the Construction Fund shall be retained in the Construction Fund; and

(f) interest and profits from the Retainage Account shall be retained in the Retainage Account.

Section 604. ***Valuation and Sale of Investments.***

1. Investment Securities acquired as an investment of moneys in any Fund or Account created under the provisions of this Master Indenture shall be at all times a part of such Fund or Account and any profit or loss realized from the liquidation of such investment shall be applied as provided in subsection 2 of Section 603 hereof.

2. In computing the amount in the Debt Service Reserve Fund and the Renewal and Replacement Fund, Investment Securities shall be valued on the date of deposit therein and not less than every six months thereafter at their Amortized Value plus accrued interest (and shall retain the previously determined value until such value is required to be redetermined); provided that (i) any Investment Security maturing more than five years after the date of deposit in the Debt Service Reserve Fund shall be valued on the date of deposit therein and not less than every six months thereafter at the Fair Market Value thereof on the date of such computation, and (ii) time deposits shall be valued at cost plus accrued interest.

3. Except as otherwise provided in this Master Indenture, the Trustee shall sell, or present for redemption, any Investment Security so purchased as an investment whenever it shall be requested in writing by an Authorized Issuer Representative to do so or whenever it shall be necessary in order to provide moneys to meet any payment or transfer from any Fund or Account held by it. The Trustee shall not be liable or responsible for any loss resulting from any such transaction.

Section 605. ***Modification by Supplemental Indenture.*** The provisions of this Article may be modified by any Supplemental Indenture in respect of any Series of Bonds authorized thereby, and in the event of any conflict with the provisions hereof the provisions of such Supplemental Indenture shall control in respect of any Series of Bonds authorized thereby.

ARTICLE VII

PARTICULAR COVENANTS OF THE ISSUER

Section 701. ***Payment of Bonds.*** The Issuer shall duly and punctually pay or cause to be paid, but solely from the Trust Estate pledged therefor by this Master Indenture, the principal and Redemption Price of and interest on the Bonds, at the date and places and in the manner mentioned in the Bonds, according to the true intent and meaning thereof.

Section 702. ***Related Financial Transactions.***

1. Except for any Related Financial Transaction entered into before or on the date on which Bonds are first issued hereunder, the Issuer shall not enter into any Related Financial Transaction unless (i) the long-term debt of the counterparty is rated, by each Rating Agency that maintains a rating for the counterparty's long-term debt, at least as high as the Series of

Bonds to which such transaction relates; (ii) the conditions set forth in paragraph (b) of subsection 3 of Section 302 hereof for the issuance of additional Bonds are met with respect to the Series of Bonds to which such transaction relates as determined as of the effective date of such transaction and taking into account the Related Financial Transaction; and (iii) the Trustee has received an opinion of Bond Counsel, in form and substance satisfactory to the Trustee, that such transaction is permitted under this Master Indenture and any applicable Supplemental Indenture, is authorized under the laws of the State and will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any of the Bonds.

2. Amounts paid or received by the Issuer in connection with a Related Financial Transaction shall be taken into account in the manner provided in clause (2) of the definition of Debt Service in Appendix A hereto in determining the amount of interest due on the related Series of Bonds for purposes of payments pursuant to Article V and Section 717 hereof.

Section 703. ***Money for Bond Payments to be Held in Trust.***

1. Except as otherwise provided by Supplemental Indenture, on or before each payment date of the principal and Redemption Price of or interest on any Bonds, the Issuer shall deposit with or cause the Trustee to make available to each Paying Agent a sum sufficient to pay the principal and Redemption Price of or interest on the Bonds so becoming due, such sum to be held in trust for the benefit of the Owners of the Bonds entitled to such principal, Redemption Price or interest.

2. The Issuer will cause each Paying Agent other than the Trustee to execute and deliver an instrument in which such Paying Agent shall agree with the Issuer, subject to the provisions of this Section, that such Paying Agent will:

(a) hold all sums held by it for the payment of principal and Redemption Price, or interest on, Bonds in trust for the benefit of the Owners of the Bonds entitled thereto until such sums shall be paid to such Owners of the Bonds or otherwise disposed of as herein provided;

(b) give the Trustee notice of any default in the making of any such payment of principal, Redemption Price, or interest; and

(c) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

3. The Issuer may at any time, for the purpose of obtaining the satisfaction and discharge of this Master Indenture or for any other purpose, pay, or direct any Paying Agent to pay, to the Trustee or an escrow agent all sums held in trust by the Issuer or such Paying Agent, such sums to be held by the Trustee or an escrow agent upon the same trusts as those upon which such sums were held by the Issuer or such Paying Agent; and upon such payment

by any Paying Agent to the Trustee or an escrow agent, such Paying Agent shall be released from all further liabilities with respect to such money.

Section 704. ***Power to Enter Into Master Indenture, Issue Bonds and Pledge Trust Estate.*** The Issuer is duly authorized under all applicable laws to create and issue the Bonds, to enter into this Master Indenture, and to pledge the Trust Estate pledged by this Master Indenture in the manner and to the extent provided in this Master Indenture and no other authorization or consent is required thereof. The Trust Estate so pledged is and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto except the pledge granted by this Master Indenture to the extent provided in this Master Indenture and all action on the part of the Issuer to that end has been and will be duly and validly taken. This Master Indenture has been duly and lawfully entered into by the Issuer, is in full force and effect and is valid and binding upon the Issuer and enforceable in accordance with its terms. The Bonds and the provisions of this Master Indenture are and will be the valid and legally enforceable obligations of the Issuer in accordance with their terms and the terms of this Master Indenture subject only to the laws relating to bankruptcy, creditors' rights and principles of governmental law and equity. The Issuer shall at all times, to the extent permitted by law, defend, preserve and protect its title to the Trustee Estate, the pledge of the Trust Estate under this Master Indenture and all the rights of the Bondowners under this Master Indenture against all claims and demands of all persons whomsoever.

Section 705. ***Construction Contracts.*** Except with respect to the Design/Build Contract, the Issuer covenants and agrees that before entering into any construction contract it will secure the recommendation of the Consulting Engineers and that it will, to the extent required by law, require each person, firm or corporation with whom it may contract for labor or materials in connection with the construction of the Project or any part thereof to furnish a performance bond and a payment bond, and to carry workmen's compensation or employer's liability insurance as may be required by law, including the PPTA. The Issuer further covenants and agrees that the proceeds of any such performance bond will forthwith, upon receipt of such proceeds, be deposited in the Construction Fund and applied toward the completion of the contract in connection with which such performance bond and a payment shall have been furnished.

Notwithstanding any other provision of this Master Indenture or any Supplemental Indenture, all contracts of the Issuer for the Project shall be made, awarded and entered into in accordance with law and the Comprehensive Agreement.

Section 706. ***Tax Covenant.*** The Issuer covenants for the benefit of the Owners of the Tax Exempt Bonds that it will not take any action or omit to take any action with respect to the Tax Exempt Bonds, the proceeds thereof, any other funds of the Issuer or any facilities financed or refinanced with the proceeds of the Tax Exempt Bonds if such action or omission (i) would cause the interest on the Tax Exempt Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Code; or (ii) would cause interest on the Tax Exempt Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Code, except to the extent such interest is required to be included in the

adjusted current earnings adjustment applicable to corporations under Section 56 of the Code in calculating corporate alternative minimum taxable income. In furtherance of this covenant, the Issuer agrees to comply with the procedures set forth in any Tax Compliance Certificate delivered by the Issuer in connection with the issuance of the Tax Exempt Bonds. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Tax Exempt Bonds until the date on which all obligations of the Issuer in fulfilling the above covenant under the Code have been met.

Section 707. ***General.***

1. The Issuer will at all times maintain its corporate existence and will use its best efforts to maintain, preserve and renew all the rights and powers provided to it by the PPTA or otherwise.

2. The Issuer shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Issuer under the provisions of this Master Indenture and any other law or regulation applicable to the Issuer, including, without limitation, the PPTA.

3. The Issuer shall not, without the affirmative vote of all of the voting members of its Board of Directors and the written consent of the Owners of not less than 66% in aggregate principal amount of the Bonds Outstanding, take any of the actions set forth in paragraph E of Article 4 of the Issuer's restated articles of incorporation.

Section 708. ***Further Assurances.*** At any and all times the Issuer shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable (i) for better assuring, granting, pledging, assigning and confirming the Trust Estate, Funds, Accounts, Investment Securities held in any Fund or Account hereunder, and the Issuer's right, title and interest in and to the foregoing, and all other moneys, securities and funds hereby pledged or assigned, or intended so to be, or which the Issuer may become bound to pledge or assign, and (ii) for better assuring, assigning and confirming the transfer of ownership of the Toll Revenues by the Issuer to the Department, subject to the lien of the Indenture, pursuant to the Memorandum and Assignment.

Section 709. ***Comprehensive Agreement.*** The Issuer covenants that as long as there are any Outstanding Bonds, it will not terminate the Comprehensive Agreement or take any action that would have a material adverse effect on its ability to impose and collect Toll Revenues thereunder.

Section 710. ***Consulting Engineer's Reports on Project.*** After the Project is completed and operational, the Issuer will cause a Consulting Engineer to make an inspection of the Project and to submit not less than annually to the Issuer a report setting forth (i) the Consulting Engineer's findings as to whether the Project has been maintained in good repair, working order

and condition, and (ii) the Consulting Engineer's advice and recommendations as to the proper maintenance, repair, and operation of the Project during the ensuing Fiscal Year and an estimate of the amount of money necessary for such purposes, including their recommendations as to the total amounts and classifications of items and amounts that should be provided for Current Expenses and for the Renewal and Replacement Fund Requirement for the next ensuing Fiscal Year. Copies of such reports shall be filed with the Trustee. The Issuer shall follow the advice and recommendations of the Consulting Engineer.

Section 711. ***Annual Budget.*** The Issuer shall file with the Trustee and with the Department at least 120 days before the beginning of each Fiscal Year the Annual Budget for the Project for each Fiscal Year. The Annual Budget shall be subject to the written approval of the Department. Each such Annual Budget shall conform to the requirements of subsection 2 of Section 717 and may set forth such additional material as the Issuer may determine. The Issuer may, at any time but subject to the written approval of the Department, adopt an amended Annual Budget for the remainder of the then current Fiscal Year and any such amended Annual Budget will be filed with the Trustee and the Department. Until a new Annual Budget is adopted, the prior Fiscal Year's Annual Budget shall be deemed to be the Annual Budget for that Fiscal Year.

Section 712. ***Accounts and Reports.***

1. The Issuer shall maintain or cause to be maintained proper books of records and account in which complete and correct entries shall be made of its transactions in accordance with Generally Accepted Accounting Principles. The Funds and Accounts established by this Master Indenture, such books, and all other books and papers relating to the Project, shall, to the extent permitted by law, at all times upon 48 hours prior written notice (or unannounced and without prior notice where there is good faith suspicion of fraud), be subject to the inspection of the Trustee, the Department and the Owners of an aggregate of not less than 5% in principal amount of the Public Debt Outstanding or their representatives duly authorized in writing. The Issuer will permit the Trustee, the Department, such Bondowners, and their agents, auditors, attorneys and counsel, at all reasonable times, to take copies and extracts from the books of record and account, and will from time to time furnish, or cause to be furnished, to the Trustee and the Department, such information and statements as the Trustee or the Department may reasonably request, all as may be reasonably necessary for the purpose of determining performance or observance by the Issuer of the covenants, conditions and obligations contained in this Master Indenture.

2. The Trustee shall provide the Issuer, the Department and, until the Final Acceptance Date, FD/MK within 10 days after the end of each month with a report of its transactions during such month relating to the Funds and Accounts held by it under this Master Indenture and setting forth, as of the end of such month, the amount held in each Fund and Account and, if applicable, the amount of any unfunded commitment to purchase Extraordinary Completion Bonds of the Department or CTB issued pursuant to subsection 2 of Section 720.

3. The Issuer shall create accounts within any Fund or Account created by this Master Indenture or any Supplemental Indenture when in the judgment of the Issuer the creation of such account will enable the Issuer to administer the Project or regulate investments or limit returns on such investments.

4. The Issuer shall annually cause a Consultant to deliver a report to the Issuer, the Department and the Trustee which specifies the amount of Revenues which need to be received in the Revenue Fund pursuant to Section 505 hereof for the future payment of Debt Service.

Section 713. ***Rules and Regulations; Maintenance of Project.*** The Issuer covenants that, subject to the terms of the Comprehensive Agreement and the other Project Agreements entered into pursuant thereto, (i) it will maintain and operate the Project in an efficient and economical manner, (ii) from the Revenues of the Project available therefor under Section 505 or other moneys legally available therefor, it will at all times maintain and repair the same in the condition and according to the standards set forth in Section 8.3 of the Comprehensive Agreement, and (iii) it will comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the Project. The Issuer further covenants that any contract entered into by the Issuer for the management of the Project shall be a Qualified Management Contract.

Section 714. ***Payment of Lawful Claims.*** The Issuer covenants that, from the Trust Estate, it will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, all lawful claims and demands for labor, materials, supplies or other object which, if unpaid, might by law become a lien upon the Trust Estate; provided, however, that nothing in this Section contained shall require the Issuer to pay or cause to be discharged, or make provision for, any such lien or charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

Section 715. ***Consulting Engineers.*** The Issuer covenants that, as long as there are any Outstanding Bonds, one or more Consulting Engineers selected or approved by the Issuer and the Department shall be employed as necessary to comply with this Master Indenture.

Section 716. ***Insurance.*** The Issuer covenants that it will cause the Project to be insured in such manner, in such amounts and against such occurrences as is required under the Comprehensive Agreement or the Design-Build Contract. The Trustee shall be the loss payee under each property and casualty insurance policy or business interruption policy carried with respect to the Project.

Section 717. ***Rate Covenant.***

1. The Issuer may, with the consent of the Department, operate the Project without charging user fees and tolls for vehicles using the Project for up to 60 days after the Opening Date. After any such toll-free period, the user fees and tolls shall initially be as set forth on Exhibit 4. The Issuer shall fix, charge and collect pursuant to this Indenture such user fees and

tolls for vehicles using the Project as shall be required to produce Toll Revenues which, beginning on the second anniversary of the Opening Date, and for each Fiscal Year thereafter, meet both the following conditions: (i) such Toll Revenues shall equal at least 1.25 times Aggregate Debt Service on outstanding Public Debt for each such Fiscal Year, and (ii) unless waived by the Department, such Toll Revenues shall equal at least 1.00 times the Aggregate Debt Service on all outstanding Bonds for each such Fiscal Year plus the projected Current Expenses for each such Fiscal Year. The projected Current Expenses for each such Fiscal Year shall be based on a report of a Toll Consultant or the Department.

2. Before the beginning of each such Fiscal Year, the Issuer shall review the financial status of the Project in order to estimate and determine whether Toll Revenues for the current Fiscal Year and for the following Fiscal Year will be sufficient to comply with the covenant set forth in subsection 1 above. The Issuer shall file with the Trustee, after approval by the Department in accordance with Section 711, a copy of its Annual Budget for each Fiscal Year. The Annual Budget shall include an estimate of Toll Revenues, Current Expenses, scheduled costs for Extraordinary Maintenance and Repair, Aggregate Debt Service for each Tier of Bonds then outstanding and any transfers of Toll Revenues required to be made to any other fund or account under the Indenture (including the Renewal and Replacement Fund), together with a statement of the pertinent estimates and assumptions. Such estimates and assumptions must take into consideration the cost of completing any uncompleted portion of the Project (including any Project Enhancements that may have been authorized) and of issuing any future series of Bonds, or of borrowing additional amounts under Section 6.5(c) of the Comprehensive Agreement if necessary to finance completion (provided that the Issuer shall have no right or authority to issue any such future series of Bonds other than Completion Bonds issued pursuant to this Indenture, or to obtain additional amounts under Section 6.5(c) of the Comprehensive Agreement, without the prior written approval of the Department, which the Department may withhold or condition in its sole and absolute discretion). If, in adopting any Annual Budget required under this Indenture, the Issuer determines that Toll Revenues may be inadequate to comply with the covenant set forth in subsection 1 above, or if the audited financial reports regarding the Project prepared by the Issuer show that the Issuer did not satisfy such covenant for the prior Fiscal Year, then, within 60 Days after such determination or the date such audit is final, the Issuer shall engage a Toll Consultant. The Toll Consultant shall be instructed to review and analyze the operations of the Project and submit to the Bond Trustee, the Department and the Issuer, within 60 Days after such engagement, a written study which shall include either (i) the Toll Consultant's recommendation of actions regarding revising the tolls, altering methods of operation or other actions projected to provide additional Toll Revenues in the following Fiscal Year and later years and to result in compliance with the covenant set forth in subsection 1 above at the earliest practicable time or (ii) an alternate plan which the Toll Consultant and Department agree in writing is likely to generate equivalent additional Toll Revenues and result in compliance with such covenant at the earliest practicable time. The Toll Consultant's study also shall include an analysis and conclusions on the achievable Optimum Toll Revenues and the toll rates projected to produce such Optimum Toll Revenues. The Toll Consultant's study shall take into account the terms and conditions of the Comprehensive Agreement relating to tolls including, without limitation, Article IV of the

Comprehensive Agreement. Unless the Toll Consultant and the Department agree to such an alternate plan, the Issuer shall take the actions recommended within 60 Days after it receives such study and recommendations from the Toll Consultant.

3. Failure of the Issuer to comply with the covenant set forth in subsection 1 above will not constitute an Event of Default if either (i) the Issuer complies with subsection 2 above or (ii) the Toll Consultant provides a written opinion (in its study or in a separate writing) addressed to the Trustee and the Department that any action recommended under subsection 2 above is impracticable at that time. For purposes of the preceding sentence, "impracticable" means (A) such action would not result in compliance with the covenant described in subsection 1 above, (B) the economic cost of taking such action exceeds the economic benefit resulting from such action, (C) the Issuer does not have sufficient available funds to pay the cost of taking such action, or (D) such action is prohibited under Section 4.3 of the Comprehensive Agreement. In addition, no Event of Default shall exist if Optimum Toll Revenues, as determined by the Toll Consultant, will not achieve the debt coverage ratio set forth in subsection 1 above and the Issuer otherwise complies with subsection 2 above or the Toll Consultant provides the foregoing written opinion.

Section 718. ***Contracts With Other Persons.*** Subject to the provisions of Section 11.1 of the Comprehensive Agreement, the Issuer reserves the right to enter into contracts with any Person providing for the acquisition, design, construction, operation and maintenance of the Project or any part thereof. Any contract entered into by the Issuer pursuant to the provisions of this Section may contain such provisions and be upon such terms and conditions consistent with the Comprehensive Agreement as the Issuer deems advisable.

Section 719. ***Second Tier Subordinate Bonds for Unreimbursed Current Expenses.*** At the end of each Fiscal Year, the Department shall provide the Issuer and the Trustee with a written statement signed by an Authorized Department Representative certifying the amount of unreimbursed Current Expenses, and directing the issuance of Second Tier Subordinate Bonds in such amounts. The Issuer shall issue and deliver to the Department as soon as practicable after the end of each Fiscal Year, Second Tier Subordinate Bonds dated and deemed issued as of the date of the Department's statement and in an amount equal to the amount so certified. Such Second Tier Subordinate Bonds shall not require the execution and delivery of a Supplemental Indenture but shall be issued at the request of the Department. Such Second Tier Subordinate Bonds shall not bear interest.

Section 720. ***Insufficient Funds to Complete the Project.***

1. The Issuer shall cause FD/MK to provide information to determine whether there are sufficient funds to complete the Project at the time that each Draw Request is submitted to the Trustee pursuant to Section 503. FD/MK shall certify in each Draw Request Total Remaining Costs of the Project and the Available Construction Fund Amount. If such Draw Request indicates that there are insufficient funds to complete the Project, the Issuer shall have a period of 90 days from the date of delivery of such Draw Request to execute a bond purchase

contract providing for the purchase of Bonds to be issued under subsection 3(a) of Section 302 within 30 days. The Issuer shall use its best efforts to execute such bond purchase contract, and upon its execution shall cause the delivery to the Trustee and the Department of a certificate of a Consultant that there are or will be sufficient funds to complete the Project upon the issuance of such Bonds.

2. If such 90-day period has lapsed without the delivery to the Trustee of the certificate of a Consultant that there are or will be sufficient funds to complete the Project upon the issuance of such Bonds or if such Bonds shall not have been issued and delivered pursuant to the executed bond purchase contract, the Department may for a period of 60 days, in its sole discretion but is not obligated to, direct the Issuer to issue Extraordinary Completion Bonds for purchase by the Department or CTB that are payable pursuant to subsection 3 of Section 505 and issue its binding commitment to purchase such Extraordinary Completion Bonds. Such Extraordinary Completion Bonds shall be purchased by the Department or CTB from time to time as funds are needed to complete the Project up to the amount of the Department's binding commitment. Such Bonds shall not require the execution and delivery of a Supplemental Indenture but shall be issued at the request of the Department against delivery of the purchase price thereof. Such Bonds shall bear interest at the same rate as the Series 1998D Bond. Except with respect to priority of payment as set forth in Subsection 3 of Section 505, Extraordinary Completion Bonds shall be considered Senior Bonds.

ARTICLE VIII

DISCHARGE AND DEFEASANCE

Section 801. *Discharge of Master Indenture.* If the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, all of the principal and Redemption Price of and interest on the Bonds, at the times and in the manner provided in the Bonds according to the true intent and meaning thereof, and shall cause the payments to be made into the Funds and Accounts established hereunder and in the amounts required hereby, or shall provide, as permitted hereby, for the payment thereof by depositing with or for the account of the Trustee or an escrow agent an amount sufficient to provide for payment of the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Master Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then, upon such payment and performance, this Master Indenture and the rights and liens hereby granted shall cease, determine and be void; otherwise, this Master Indenture is to be and shall remain in full force and effect. In the event that this Master Indenture is discharged as herein provided, the Trustee shall cause an accounting for such period or periods as shall be requested by the Issuer or the Department to be prepared and filed with the Issuer and the Department (at the Issuer's or Department's sole expense) and, upon the request of the Issuer or the Department, shall execute and deliver to the Issuer and the Department all such instruments as may be desirable to

evidence such discharge and satisfaction, and the Trustee shall pay over or deliver to the Department all moneys or securities held by it pursuant to this Master Indenture in respect of such Series which are not required for the payment of principal or Redemption Price, and interest on the Bonds of such Series not theretofore surrendered for such payment, or redemption and which is not required to pay or provide for the payment of other obligations then due under Section 505.

Section 802. *Defeasance.* Any Outstanding Bonds shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in Section 801 if (i) in case any of such Bonds are to be redeemed on any date prior to their maturity, the Issuer shall have given to the Trustee in form satisfactory to it a Letter of Instructions containing irrevocable instructions to give notice of redemption of such Bonds on said date as provided in Article IV hereof, (ii) there shall have been deposited with the Trustee or an escrow agent, in trust, either money in an amount which shall be sufficient, or Defeasance Investment Securities the principal of and interest on which without any reinvestment thereof when due will provide money which, together with the money, if any, deposited with the Trustee or an escrow agent at the same time, shall be sufficient, to pay when due the principal or Redemption Price of, and interest due and to become due on, such Bonds on or prior to the redemption date or maturity date thereof, as the case may be, (iii) the Issuer shall have furnished to the Trustee a verification report in form satisfactory to the Trustee stating that the money or Defeasance Investment Securities deposited with the Trustee or an escrow agent is sufficient to pay when due the principal or Redemption Price of, and interest due and to become due on, such Bonds on or prior to the redemption date or maturity date thereof, as the case may be, (iv) in the event such Bonds are not to be redeemed within the next succeeding 60 days, the Issuer shall have given the Trustee in form satisfactory to it a Letter of Instructions containing irrevocable instructions to mail, as soon as practicable, notice to the Owners of all such Bonds that the deposit required by (ii) above has been made with the Trustee or an escrow agent and that such Bonds are deemed to have been paid in accordance with this Section and stating such maturity or Redemption Date upon which money is to be made available for the payment of the principal or Redemption Price of and interest on such Bonds, (v) the Trustee receives an opinion, in form and substance satisfactory to the Trustee, of counsel with recognized expertise in the area of bankruptcy, that any amounts so deposited with the Trustee or escrow agent from funds provided by the Issuer may not be recovered by creditors of the Issuer as a voidable preference under Section 547 of the United States Bankruptcy Code, and (vi) the Trustee receives an opinion of Bond Counsel, in form and substance satisfactory to the Trustee, that such Bonds shall be deemed paid under Section 801. Neither Defeasance Investment Securities nor money deposited with the Trustee or an escrow agent pursuant to this Section nor principal or interest payments on any such Defeasance Investment Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price of and interest on said Bonds; provided that any cash received from such principal or interest payment on such Defeasance Investment Securities, (i) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Issuer as received, free and clear of any trust, lien, security interest, pledge or assignment securing such Bonds or otherwise existing under this Master Indenture, if all Bonds have been redeemed or discharged, otherwise such cash shall be

deposited in the Revenue Fund, and (ii) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in the Defeasance Investment Securities maturing at times and in amounts sufficient to pay when due the principal or Redemption Price of and interest to become due on such Bonds, on or prior to such Redemption Date or maturity date thereof, as the case may be, and interest earned from such reinvestment shall be paid over to the Issuer, as received, free and clear of any trust, lien or pledge, if all Bonds have been redeemed or discharged, otherwise such cash shall be deposited in the Revenue Fund.

ARTICLE IX

DEFAULT AND REMEDIES

Section 901. ***Rights and Remedies, Generally.*** Subject to the provisions of this Master Indenture, the Owners of the Bonds and the Trustee acting for all of the Owners of the Bonds shall be entitled to all of the rights and remedies provided or permitted by law.

Section 902. ***Events of Default.*** Each of the following events is hereby declared an "Event of Default" under this Master Indenture:

1. Failure to make due and punctual payment of the principal or Redemption Price of any Bond when and as the same shall become due and payable, whether at maturity or by call for redemption, or otherwise;

2. Failure to make due and punctual payment of any installment of interest on any Bond or the unsatisfied balance of any Sinking Fund Installment therefor (except when such Sinking Fund Installment is due on the maturity date of such Bond), when and as such interest installment or Sinking Fund Installment shall become due and payable;

3. Failure by the Issuer in the performance or observance of any other of the covenants, agreements or conditions on its part contained in this Master Indenture or any Supplemental Indenture or in the Bonds, and such failure shall continue for a period of 30 days after written notice thereof to the Issuer by the Trustee or to the Issuer and to the Trustee by the Owners of not less than 25% in principal amount of the Bonds Outstanding;

4. If the Issuer shall: (i) file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization, arrangement, readjustment or composition of its debts or for any other relief under the federal bankruptcy laws or under any other insolvency act or law, State or federal, now or hereafter existing; (ii) take any action indicating its consent to, approval of, or acquiescence in, any such petition or proceeding; (iii) apply for, or consent or acquiesce in the appointment of, a receiver or a trustee of the Issuer or for all or a substantial part of its property; (iv) make an assignment for the benefit of creditors; or (v) be unable, or admit in writing its inability, to pay its debts as they mature;

5. A default under the SIB Loan Agreement shall be a default solely with respect to the Series 1998D Bonds;

6. If proceedings shall be commenced against the Issuer, without its authorization, consent or application, in bankruptcy or seeking reorganization, arrangement, readjustment or composition of its debts or for any other relief under the federal bankruptcy laws or under any other insolvency act or law, State or federal, now or hereafter existing, or seeking the involuntary appointment of a receiver or trustee of the Issuer or for all or a substantial part of its property, and the same shall continue for 90 days undismissed or undischarged or shall result in the adjudication of bankruptcy or insolvency; or

7. A period of 150 days shall have elapsed after delivery to the Trustee pursuant to subsection 1 of Section 720 of a certificate of FD/MK that there are insufficient funds available to complete the Project and during such period there is not delivered to the Trustee pursuant to subsection 1 of Section 720 a certificate of a Consultant establishing that there will be sufficient funds available to complete the Project or the Department or CTB shall not have issued a binding commitment to purchase Bonds pursuant to subsection 2 of Section 720.

Notwithstanding any provision herein to the contrary, no Event of Default described in paragraphs 1 or 2 above with respect to any Series of Bonds shall be an Event of Default with respect to any other Series of Bonds except those that are of the same Tier.

Section 903. ***Notice of Default; Department's Cure Rights.***

1. The Trustee shall not be required to give notice to the Issuer of any Event of Default hereunder; provided, however, that upon written request of the Owners of not less than 25% in aggregate principal amount of the Bonds Outstanding with a lien on Revenues that is on parity with such Bonds (for purposes of this Section, the "Affected Bonds"), the Trustee shall give written notice to the Issuer and the Department of any default or breach constituting an Event of Default with respect to such Affected Bonds under Section 902(3) hereof.

2. If an Event of Default shall occur and be continuing, the Trustee shall give prompt notice thereof to the Department and the Department shall have the right, but not the obligation, at its election, for a period of 90 days after such notice is given, to remedy or cause to be remedied such Event of Default and the Trustee and the Owners shall accept such performance by or at the instigation of the Department as if the same had been done by the Issuer.

Section 904. ***Specific Remedies.***

1. If an Event of Default with respect to the Senior Bonds shall occur and be continuing, then, subject to subsection 3 of this Section, the Trustee may and, upon the written request of the Owners of not less than 25% in aggregate principal amount of the Senior Bonds and having been indemnified to its satisfaction, shall take all or any one or more of the following actions:

(a) By mandamus or other suit, action or proceeding at law or in equity require the Issuer to perform its covenants, representations and duties with respect to the Senior Bonds under this Master Indenture;

(b) By action or suit in equity require the Issuer to account as if it were the trustee of an express trust for the Owners of the Senior Bonds;

(c) By action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Senior Bonds;

(d) Prohibit the Issuer from withdrawing moneys from any Funds or Accounts (except the Rebate Fund, the Series 1998D Bond Proceeds Account, the Department Capital Cost Savings Account and the Renewal and Replacement Fund) without the Trustee's written consent; provided that neither the Trustee nor the Owners shall have any right to suspend withdrawals from the Revenue Fund to pay or reimburse Current Expenses or costs of Extraordinary Maintenance and Repair incurred by the Department;

(e) Request that a court of competent jurisdiction appoint, to the extent permitted by law, a receiver or receivers of the Trust Estate, and the income, revenues, profits and use thereof, it being the intent hereof that, to the extent permitted by law, the Trustee shall be entitled to appointment of such a receiver as a matter of right;

(f) Engage such Consultants as the Trustee determines is in the best interest of the Owners of the Senior Bonds;

(g) Exercise with respect to the Trust Estate, or any portion thereof, such rights and remedies as may be available to a secured party under the Uniform Commercial Code of Virginia (the "Virginia UCC");

(h) Enter the Project for the purpose of collecting Revenues for deposit into the Revenue Fund to be used for the purposes and in the order of priority set forth in Section 505 hereof (and for no other purpose);

(i) Pursue remedies available under any of the Project Agreements; or

(j) Take such other steps to protect and enforce its rights and the rights of the Owners of the Senior Bonds, whether by action, suit or proceeding in aid of the execution of any power herein granted or for the enforcement of any other appropriate legal or equitable remedy, including, but not limited to, proceeding by suit or suits, at law or in equity or by any other appropriate legal or equitable remedy, to enforce payment of the principal and Redemption Price of and interest on the Senior Bonds; provided that no such remedy shall be undertaken that has the effect of altering or circumventing (i) the use and priority of use of Revenues set forth in Section 505 or (ii) the use of moneys in the Renewal and Replacement Fund as set forth in Section 509, (iii)

the use of moneys in the Department Capital Cost Savings Account set forth in subsection 4 of Section 502 or (iv) the use of money in the Retainage Account set forth in subsection 3 of Section 503.

2. If an Event of Default with respect to the First Tier Subordinate Bonds shall occur and be continuing and if there are no Senior Bonds Outstanding, then, subject to subsection 4 of this Section, the Trustee may and, upon the written request of the Owners of not less than 25% in aggregate principal amount of the First Tier Subordinate Bonds with respect to which such Event of Default has occurred and is continuing (for purposes of this subsection, the "Affected Subordinate Bonds"), and having been indemnified to its satisfaction, shall give notice thereof to the Issuer and the Department and shall:

(a) By mandamus or other suit, action or proceeding at law or in equity require the Issuer to perform its covenants, representations and duties with respect to the Affected Subordinate Bonds under this Master Indenture; and/or

(b) Prohibit the Issuer from withdrawing from the Debt Service Accounts and Debt Service Reserve Accounts that secure such Affected Subordinate Bonds but that are not available for payment of the Senior Bonds without the Trustee's written consent.

3. If an Event of Default with respect to the Second Tier Subordinate Bonds shall occur and be continuing and if there are no Senior Bonds or First Tier Bonds Outstanding, then, subject to subsection 4 of this Section, the Trustee may and, upon the written request of the Owners of not less than 25% in aggregate principal amount of the Second Tier Subordinate Bonds with respect to which such Event of Default has occurred and is continuing (for purposes of this subsection, the "Affected Subordinate Bonds"), and having been indemnified to its satisfaction, shall give notice thereof to the Issuer and the Department and shall:

(a) By mandamus or other suit, action or proceeding at law or in equity require the Issuer to perform its covenants, representations and duties with respect to the Affected Subordinate Bonds under this Master Indenture; and/or

(b) Prohibit the Issuer from withdrawing from the Debt Service Accounts that secure such Affected Subordinate Bonds but that are not available for payment of the Senior Bonds or First Tier Subordinate Bonds without the Trustee's written consent.

4. Notwithstanding any other provision hereof, if an Event of Default has occurred and is continuing with respect to any Bonds, no such remedy may be exercised by any Person on behalf of the Owners of any Tier of Bonds that is Subordinate in a manner that materially adversely affects the lien on the Trust Estate of any Superior Obligation, the collection or payment of Revenues for the benefit of any such Superior Obligation in accordance with Section 505 or the other rights of the Owners of any such Superior Obligation.

5. Notwithstanding any other provision hereof, no Bonds shall be subject to acceleration due to an Event of Default having occurred and being continuing.

Section 905. ***Application of Proceeds.*** The proceeds received by the Trustee pursuant to the exercise of any right or remedy under this Article shall, together with all securities and other moneys which may then be held by the Trustee as a part of the Trust Estate, subject to subsection 3 of Section 904 hereof, be applied in order, as follows:

1. To the payment of the reasonable and proper charges, expenses and liabilities of the Trustee; and

2. As provided in Section 505.

Section 906. ***Trustee May Act Without Possession of Bonds.*** All rights of action under this Master Indenture or under any Bonds may be enforced by the Trustee without possession of any of the Bonds or the production thereof in any trial or other proceedings relative thereto, and any such suit or proceedings instituted by the Trustee shall be brought in its name, as Trustee for the ratable benefit of the Owners of the Bonds, subject to the provisions of this Master Indenture.

Section 907. ***Trustee as Attorney-in-Fact.*** The Trustee is hereby appointed (and the Owners of the Bonds, by taking and holding same from time to time, shall be deemed to have so appointed the Trustee) the true and lawful attorney in fact of the Owners of the Bonds, or on behalf of all Owners of the Bonds as a class, with respect to any proof of debt, amendment to proof of debt, petition or other document, and to do and perform any and all acts and things for and in the name of the Owners of the Bonds against the Issuer allowed in any equity receivership, insolvency, liquidation, bankruptcy, reorganization or other proceedings to which the Issuer shall be a party and to receive payment of or on account of such claims. Any such receiver, assignee, liquidator or trustee is hereby authorized by each of the Owners of the Bonds to make such payments to the Trustee, and, in the event that the Trustee shall consent to the making of such payments directly to the Owners of the Bonds, to pay to the Trustee any amount due for compensation and expenses of the Trustee, including counsel fees, incurred up to the date of such distribution, and the Trustee shall have full power of substitution and delegation in respect of any such powers.

Section 908. ***Remedies Not Exclusive.*** No remedy herein conferred upon or reserved to the Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity or by statute subject, however, to the limitations on remedies for the benefit of the Owners of First Tier Subordinate Bonds and Second Tier Subordinate Bonds set forth in subsections 2 and 3 of Section 904 hereof and paragraph (j) of subsection 1 of Section 904 hereof.

Section 909. ***Limitation on Suits.*** All rights of action in respect of this Master Indenture shall be exercised only by the Trustee, and no Owner of any Bond shall have any right to institute any suit, action or proceedings at law or in equity for the appointment of a receiver or for any other remedy hereunder or by reason hereof, unless and until the Trustee shall have received a written request of the Owners of not less than 25% in aggregate principal amount of the Bonds Outstanding and shall have been furnished reasonable indemnity and shall have refused or neglected for 10 days thereafter to institute such suit, action or proceedings and no direction inconsistent with such written request has been given to the Trustee during such 10-day period by the Owners of a majority in principal amount of the Bonds Outstanding. The making of such request and the furnishing of such indemnity shall in each and every case be conditions precedent to the execution and enforcement by any Owner of any Bond of the powers and remedies given to the Trustee hereunder and to the institution and maintenance by any such Owner of any action or cause of action for the appointment of a receiver or for any other remedy hereunder, but the Trustee may, in its discretion, and when thereunto duly requested in writing by the Owners of not less than 25% in aggregate principal amount of the Bonds Outstanding and when furnished indemnity satisfactory to protect it against expenses, charges and liability shall, forthwith, subject to subsection 4 of Section 904 hereof take such appropriate action by judicial proceedings otherwise in respect of any existing default on the part of the Issuer as the Trustee may deem expedient in the interest of the Owners of the Bonds. The rights of the Owners under this Section are in all events subject to the provisions of subsection 4 of Section 904 hereof.

Nothing contained in this Article, however, shall affect or impair the right of any Owner of Bonds, which shall be absolute and unconditional, to enforce the payment of the principal of, premium, if any, and interest on the Bonds of such Owner, but only out of the moneys for such payment as herein provided, or the obligation of the Issuer, which shall also be absolute and unconditional, to make payment of the principal of, premium, if any, and interest on the Bonds, but only out of the funds provided herein for such payment, to the respective Owners thereof at the time and place stated herein.

Section 910. ***Right of Owners of the Bonds to Direct Proceedings.*** Notwithstanding any provision of this Master Indenture to the contrary, but subject to subsection 4 of Section 1301, the Owner or Owners of more than 50% in aggregate principal amount of the Bonds Outstanding with respect to which an Event of Default shall have occurred and be continuing shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Master Indenture, or for the pursuit or exercise of any remedy available to the Trustee or any trust or power conferred on the Trustee or any other proceedings hereunder; provided, however, that the Trustee shall have been satisfactorily indemnified and that such direction shall not be contrary to law or the provisions of this Master Indenture. The rights of the Owners under this Section are in all events subject to the provisions of subsection 4 of Section 904 hereof.

Section 911. ***Restoration of Rights and Remedies.*** If the Trustee or any Owner of a Bond has instituted any proceeding to enforce any right or remedy under this Master Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Owner of a Bond, then and in every such case, the Issuer, the Trustee and the Owners of the Bonds shall, subject to any determination in such proceeding, be restored severally and respectively to their former positions hereunder, and thereafter all rights and remedies of the Trustee and the Owners of the Bonds shall continue as though no such proceeding had been instituted.

Section 912. ***Waiver of Stay or Extension Laws.*** To the extent that it may lawfully do so, the Issuer covenants that it will not at any time insist upon, plead or in any manner whatsoever claim or take the benefit or advantage of any stay or extension law, whenever or wherever enacted, which may affect the covenants or the performance of this Master Indenture. The Issuer also covenants that it will not otherwise hinder, delay or impede the execution of any power herein granted to the Trustee.

Section 913. ***Delay or Omission Not Waiver.*** No delay or omission of the Trustee or of any Owner of any Bond to exercise any right or remedy accruing upon any Event of Default hereunder shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Owners of the Bonds may be executed from time to time, and as often as may be deemed expedient, by the Trustee or by the Owners of the Bonds, as the case may be.

Section 914. ***Notice to Owners of the Bonds of Default.*** The Trustee shall promptly mail to registered Owners of Bonds written notice of the occurrence of any failure by the Issuer to cause to be made any payments as described in subsections 1 or 2 of Section 902 or any other Event of Default of which it has received written notice pursuant to Section 1003 of this Master Indenture.

ARTICLE X

CONCERNING THE FIDUCIARIES

Section 1001. ***Trustee; Appointment and Acceptance of Duties.*** Crestar Bank, a Virginia banking corporation, is hereby appointed as Trustee. The Trustee hereby accepts and agrees to execute the trusts hereby created, but only upon the additional terms set forth in this Article X, to all of which the Issuer agrees and the respective Owners of the Bonds agree by their acceptance of delivery of any of the Bonds. The Trustee shall be deemed to have accepted such trusts with respect to all the Bonds hereafter to be issued, but only, however, upon the terms and conditions set forth in this Master Indenture.

Section 1002. ***Paying Agents, Registrars and Other Agents; Appointment and Acceptance of Duties.***

1. The Issuer, with the prior written consent of an Authorized Department Representative, may appoint one or more Paying Agents, Registrars, or other Fiduciaries to perform any of the duties and obligations imposed under this Master Indenture or any Supplemental Indenture, and separate appointments may be made for the Bonds of each Series. The Trustee may be appointed to serve in any such capacity without the prior written consent of an Authorized Department Representative.

2. Each Paying Agent, Registrar or other Fiduciary, other than the Trustee, shall signify its acceptance of the duties and obligations imposed upon it by this Indenture or any Supplemental Indenture by executing and delivering to the Issuer and to the Trustee a written acceptance thereof.

Section 1003. ***Responsibilities of the Trustee.***

1. The recitals of fact herein and in the Bonds contained shall be taken as the statements of the Issuer and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Master Indenture or of any Bonds issued thereunder or as to the security afforded by this Master Indenture, and the Trustee shall not incur any liability in respect thereof. The Trustee shall, however, be responsible for its representations contained in any certificate on the Bonds. The Trustee shall not be under any responsibility or duty with respect to the application of any money paid to the Issuer or money collected by the Issuer prior to the delivery thereof to the Trustee. The Trustee shall not be under any obligation or duty to perform any act, whether requested by the Owners or otherwise, which would involve it in liability or to institute or defend any suit in respect hereof, or to advance any of its own money, unless it has been satisfactorily indemnified against such liability except liability resulting from its gross negligence or willful misconduct. Subject to the provisions of subsection 2 of this Section, the Trustee shall not be liable in connection with the performance of its duties hereunder except for its own gross negligence or willful misconduct.

2. The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Master Indenture. In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers vested in it by this Master Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of said person's own affairs. The Trustee shall not be required to take notice or be deemed to have notice or knowledge of any default hereunder except failure by the Issuer to cause to be made any of the payments required to be made under Subsection 1 or 2 of Section 902 unless the Trustee shall be specifically notified in writing of the default by the Issuer or by the Owners of not less than 15% in principal amount of the Bonds Outstanding. All notices or other instruments required by this Master Indenture to be delivered to the Trustee must, to be effective, be delivered at the principal corporate trust office of the Trustee, and in the absence of the notice so delivered, the Trustee may conclusively assume there is no default except as

aforesaid. Any provision of this Master Indenture relating to action taken or to be taken by the Trustee or the evidence upon which the Trustee may rely shall be subject to the provisions of this Section.

Section 1004. *Evidence on Which the Trustee May Act.*

1. The Trustee, upon receipt of any notice, resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document furnished to it pursuant to any provision of this Master Indenture, shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may or may not be counsel to the Issuer or any Consultant, and the opinion of such counsel or Consultant shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Master Indenture in good faith and in accordance therewith.

2. Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Master Indenture, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of an Authorized Issuer Representative, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Master Indenture upon the faith thereof; but in its discretion the Trustee may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable.

3. Except as otherwise expressly provided in this Master Indenture, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision thereof by the Issuer to the Trustee shall be sufficiently executed if executed in the name of the Issuer by an Authorized Issuer Representative.

4. The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, receivers, agents or employees but shall not be answerable for the conduct of attorneys and receivers who have been selected by it with reasonable care, and may in all cases pay reasonable compensation to all attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof.

5. Except as otherwise provided in Section 602, the Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

Section 1005. *Compensation.* The Issuer shall pay to the Trustee from time to time reasonable compensation for all services rendered under this Master Indenture, including reasonable default fees of the Trustee upon the occurrence of an Event of Default hereunder, and also all reasonable expenses, costs, charges, counsel fees, Consultant fees and other disbursements, including those of its attorneys, agents, Consultants and employees, incurred in

and about the execution of the trusts created by this Master Indenture, and in and about the exercise and performance of the powers and duties of the Trustee hereunder and for the reasonably necessary costs and expenses incurred in defending any liability in the premises of any character whatsoever (unless such liability is adjudicated to have resulted from the gross negligence or willful misconduct of the Trustee) under this Master Indenture.

Section 1006. ***Certain Permitted Acts.*** The Trustee may become the Owner of any Bonds, with the same rights it would have if it were not the Trustee. To the extent permitted by law, the Trustee may act as depository for, and may permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondowners or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Master Indenture, whether or not any such committee shall represent the Owners of a majority in principal amount of the Bonds Outstanding.

Section 1007. ***Resignation of Trustee.*** Except as otherwise provided by Supplemental Indenture, the Trustee may at any time resign and be discharged of the duties and obligations created by this Master Indenture, effective immediately upon the appointment of a successor Trustee pursuant to Section 1009 hereof, by giving not less than 60 days' written notice to the Issuer of the date it desires to resign and mailing written notice to the Owners of all Bonds and such resignation shall take effect immediately on the appointment of a successor Trustee pursuant to Section 1009 hereof.

Section 1008. ***Removal of Trustee.*** The Trustee may be removed, with or without cause, at any time by an instrument or concurrent instruments in writing, filed with the Trustee, and signed by the Owners of a majority in principal amount of the Bonds Outstanding or their attorneys-in-fact duly authorized, excluding any Bonds held by or for the account of the Issuer. The Trustee may be removed by the Issuer, but only with the consent or at the direction of the Department, after the occurrence of any of the events described in Section 1011.

Section 1009. ***Appointment of Successor Trustee.***

1. In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, a successor may be appointed by the Owners of a majority in principal amount of the Bonds Outstanding, excluding any Bonds held by or for the account of the Issuer by an instrument or concurrent instruments in writing signed and acknowledged by such Bondowners or by their attorneys-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to the Issuer and the predecessor Trustee; provided, nevertheless, that unless a successor Trustee shall have been appointed by the Bondowners as aforesaid, the Issuer by duly executed written instrument signed by an Authorized Issuer Representative, with the prior written consent of an Authorized Department Representative, shall forthwith appoint a Trustee to fill such vacancy until a successor Trustee shall be appointed by the Bondowners as authorized in this Section. The

Issuer shall mail notice of such appointment to the Owners of all Bonds. Any successor Trustee appointed by the Issuer shall, immediately and without further act, be superseded by a Trustee appointed by the Bondowners.

2. If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within 45 days after the Trustee shall have given to the Issuer written notice as provided in Section 1007 or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, its removal, or for any other reason whatsoever, the Trustee (in the case of a resignation under Section 1007) or the Owner of any Bond (in any case) may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

3. Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a bank or trust company or national or state banking association, having (or whose parent holding company shall have) capital stock and surplus aggregating at least $100,000,000.

Section 1010. ***Transfer of Rights and Property to Successor Trustee.*** Any successor Trustee appointed under this Master Indenture shall execute, acknowledge, and deliver to its predecessor Trustee and to the Issuer an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties, and obligations of such predecessor Trustee, with like effect as if originally named as Trustee; but the Trustee ceasing to act shall nevertheless, on the written request of the Issuer or of the successor Trustee, execute, acknowledge, and deliver such instruments of assignment and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Trustee all rights, powers, duties and obligation in and to any property held by it under this Master Indenture, and shall pay over, assign, and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any instrument in writing from the Issuer be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers, and duties, any and all such instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged, and delivered by the Issuer. Any such successor Trustee shall promptly notify any Paying Agents and Registrars of its appointment as Trustee.

Section 1011. ***Merger or Consolidation.*** Any bank or trust company into which the Trustee may be merged or converted or with which it may be consolidated or any bank or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such entity shall be a bank or trust company organized under the laws of any state of the United States or a national banking association, and shall be authorized by law to perform all duties imposed upon it by this Master Indenture, shall be the

successor Trustee without the execution or filing of any paper or the performance of any further act, provided, however, that any such merger, conversion, consolidation, sale or transfer shall be grounds for removal of the Trustee by the Issuer with the consent or at the direction of the Department under Section 1008 and provided further that the appointment of a receiver or conservator for the Trustee shall be grounds for removal of the Trustee by the Issuer with the consent or at the direction of the Department under Section 1008.

Section 1012. ***Adoption of Authentication.*** In case of the Bonds contemplated to be issued under this Master Indenture shall have been authenticated but not delivered, any successor Trustee or Authenticating Agent may adopt the certificate of authentication of any predecessor Trustee or Authenticating Agent so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee or Authenticating Agent may authenticate such Bonds in the name of the predecessor Trustee or Authenticating Agent, or in the name of the successor Trustee or Authenticating Agent, and in all such cases such certificate shall have the full force which it is anywhere in said Bonds or in this Master Indenture provided that the certificate of the Trustee or Authenticating Agent shall have.

Section 1013. ***Resignation or Removal of Fiduciaries and Appointment of Successors.***

1. Any Paying Agent, Registrar or other Fiduciary may at any time resign and be discharged of the duties and obligations created by this Master Indenture or any Supplemental Indenture by giving at least 60 days' written notice to the Issuer, the Trustee, and the other Fiduciaries, if any. Any such Fiduciary may be removed at any time with the prior written consent of an Authorized Department Representative by an instrument filed with such Fiduciary and the Trustee and signed by the Issuer. Any successor Fiduciary shall be appointed by the Issuer with the approval of the Trustee and with the prior written consent of an Authorized Department Representative and shall be willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it in such capacity by this Master Indenture.

2. In the event of the resignation or removal of any Fiduciary, such Fiduciary shall pay over, assign and deliver any money held by it to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent or Registrar appointed by the Issuer the Trustee shall act as such Paying Agent or Registrar.

3. The provisions of this Section may be modified by Supplemental Indenture in respect of any Series of Bonds, authorized thereby, and, in the event of any conflict with the provisions hereof, the provisions of such Supplemental Indenture shall control in respect of any Series of Bonds authorized thereby.

ARTICLE XI

SUPPLEMENTAL INDENTURES

Section 1101. ***Supplemental Indentures Effective Without Consent of Bondowners.*** The Issuer and the Trustee may, from time to time and at any time, but only with the written consent of an Authorized Department Representative but without the consent of or notice to Bondowners, enter into Supplemental Indentures as follows:

1. To cure or consent to the cure of any formal defect, omission, inconsistency or ambiguity in this Master Indenture or the Memorandum and Assignment, provided that no such action shall adversely affect the interest of the Bondowners;

2. To insert such provisions clarifying matters or questions arising under this Master Indenture or the Memorandum and Assignment as are necessary or desirable and are not contrary to or inconsistent with this Master Indenture or the Memorandum and Assignment as theretofore in effect;

3. To authorize Bonds of a Series and, in connection therewith, to specify and determine the matters and things referred to in Article III hereof and also any other matters and things relative to such Bonds which are not in conflict with this Master Indenture as theretofore in effect, or to amend, modify, or rescind any such authorization, specification, or determination at any time prior to the first delivery of such Bonds;

4. To conform this Master Indenture to any amendment of any Supplemental Indenture in accordance with its terms;

5. To provide limitations and restrictions in addition to the limitations and restrictions contained in this Master Indenture or any Supplemental Indenture on the delivery of Bonds or the issuance of other evidences of indebtedness;

6. To add to the covenants and agreements of the Issuer in this Master Indenture or any Supplemental Indenture, other covenants and agreements to be observed by the Issuer which are not in conflict with this Master Indenture or the applicable Supplemental Indentures as theretofore in effect;

7. To add to the limitations and restrictions in this Master Indenture or any Supplemental Indenture other limitations and restrictions to be observed by the Issuer which are not in conflict with this Master Indenture or the applicable Supplemental Indenture as theretofore in effect;

8. To confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by, this Master Indenture or any Supplemental Indenture, of the Trust Estate;

9. To provide for additional duties of the Trustee in connection with the Trust Estate or the Project;

10. To modify any of the provisions of this Master Indenture or any Supplemental Indenture in any respect whatever, provided that (i) such modification shall be, and be expressed to be, effective only after all Outstanding Bonds of any Series at the date of the execution of such Master Indenture or Supplemental Indenture shall cease to be Outstanding Bonds; and (ii) such Supplemental Indenture shall be specifically referred to in the text of all Bonds of any Series delivered after the date of the execution of such Supplemental Indenture and of Bonds issued in exchange therefor or in place thereof;

11. To modify, amend or supplement this Master Indenture or any Supplemental Indenture in such manner as to permit, if presented, the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar federal statute hereafter in effect or under any state blue sky law;

12. To surrender any right, power or privilege reserved to or conferred upon the Issuer by the terms of this Master Indenture, provided that the surrender of such right, power or privilege is not in conflict with the covenants and agreements of the Issuer contained in this Master Indenture;

13. To increase the Debt Service Reserve Fund Requirement and any capitalized interest requirements;

14. To establish or increase the required balance to be accumulated or maintained in the Renewal and Replacement Fund;

15. To alter the Master Indenture to comply with the requirements of a nationally recognized rating agency in order to obtain or maintain a rating on any of the Bonds in one of the four highest rating categories of such rating agency;

16. To designate Paying Agents, Registrars, and other Fiduciaries for the Bonds of any Series;

17. To modify, amend or supplement this Master Indenture or any Supplemental Indenture in order to provide for or eliminate book-entry registration of all or any of the Bonds;

18. To amend a prior Supplemental Indenture in accordance with the provisions thereof; and

19. For any other purpose in respect of any Bonds or any Series of Bonds which, at the time such amendments are made, are fully secured by a pledge of or lien on direct obligations of or obligations the principal of and interest on which is unconditionally guaranteed by, the United States of America, certified by an independent certified public accountant to be sufficient to provide for the full and timely payment of principal and Redemption Price of, and interest on, the Bonds.

Section 1102. ***Supplemental Indentures Requiring Bondowner Consent.*** Except as provided in Section 1101 hereof, any modification or amendment of this Master Indenture or the Memorandum and Assignment and of the rights and obligations of the Issuer and of the Owners of the Bonds hereunder or thereunder, in any particular, may only be made by a Supplemental Indenture with the written consent of an Authorized Department Representative, and with the written consent (given as provided in Section 1103) of the Owners of at least 66% in principal amount of the Bonds that will be Outstanding as of the effective date of such modification or amendment (subject to subsection 4 of Section 1301); provided, however, that if such modification or amendment will, by its terms, not take effect as long as any Bonds of any specified like Series and maturity remain Outstanding, the consent of the Owners of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section. Except as otherwise provided in this Master Indenture or any Supplemental Indenture, no such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Owner of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds of which the consent of the Owners is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of any Fiduciary without its written consent thereto. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of this Master Indenture if the same materially adversely affects or diminishes the rights of the Owners of Bonds of such Series. The Trustee may in its discretion determine whether or not, in accordance with the foregoing powers of amendment, Bonds of any particular Series or maturity would be affected by any modification or amendment of this Master Indenture and any such determination shall be binding and conclusive on the Issuer and all Owners of Bonds.

Section 1103. ***Consent of Bondowners.*** The Issuer and the Trustee with the written consent of an Authorized Department Representative, may at any time enter into a Supplemental Indenture making a modification or amendment permitted by the provisions of Section 1102 hereof, to take effect when and as provided in this Section. A copy of such Supplemental Indenture (or brief summary thereof or reference thereto in form approved by the Trustee), together with a request to Bondowners for their consent thereto in form satisfactory to the Trustee, shall be mailed to Bondowners as provided in Section 1108 hereof. Such Supplemental Indenture shall not be effective unless and until: (i) there shall have been filed with the Trustee the written consent of Owners of the percentages of Outstanding Bonds specified in Section 1102 hereof and an opinion of Bond Counsel, in form and substance satisfactory to the Trustee, stating

that such Supplemental Indenture has been duly and lawfully entered into by the Issuer in accordance with the provisions of this Master Indenture, is authorized or permitted by this Master Indenture, is valid and binding upon the Issuer and enforceable in accordance with its terms, has been consented to in writing by an Authorized Department Representative, is in accordance with this Master Indenture and will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any Tax Exempt Bonds; provided, however, that such opinion may take exception for limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally and principles of government law and equity; and (ii) a notice shall have been mailed as hereinafter in this Section provided. Each such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 1301 hereof. A certificate or certificates by the Trustee filed with the Trustee that it has examined such proof and that such proof is sufficient in accordance with Section 1301 hereof shall be conclusive that the consents have been given by the Owners of the Bonds described in such certificate or certificates of the Trustee. Any such consent shall be binding upon the Owner of the Bonds giving such consent and, anything in Section 1301 hereof to the contrary notwithstanding, upon any subsequent Owner of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Owner thereof has notice thereof) unless such consent is revoked in writing by the Owner of such Bonds giving such consent or a subsequent Owner thereof by filing with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this Section provided for is filed, such revocation. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Trustee to the effect that no revocation thereof is on file with the Trustee. At any time after the Owners of the required percentages of Bonds shall have filed their consents to the Supplemental Indenture, the Trustee shall make and file with the Issuer a written statement that the Owners of such required percentages of Bonds have filed such consents. Such written statement shall be conclusive that such consents have been so filed. At any time thereafter notice, stating in substance that the Supplemental Indenture (which may be referred to as a Supplemental Indenture entered into by the Issuer and the Trustee as of a stated date, a copy of which is on file with the Trustee) has been consented to by the Owner of the required percentages of Bonds and will be effective as provided in this Section, may be given to Bondowners by mailing such notice to Bondowners not more than 15 days after the Owners of the required percentages of Bonds shall have filed their consents to the Supplemental Indenture and the written statement of the Trustee hereinabove provided for is filed. Proof of the mailing of such notice shall be filed with the Trustee. A record, consisting of the papers required or permitted by this Section to be filed with the Trustee, shall be proof of the matters therein stated. Such Supplemental Indenture making such amendment or modification shall be deemed conclusively binding upon the Issuer, the Fiduciaries and the Owners of all Bonds at the expiration of 10 days after the filing with the Trustee of the proof of the mailing of such last mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Indenture in a legal action or equitable proceeding for such purpose commenced within such 10-day period; provided, however, that any Fiduciary and the Issuer during such 10-day period and any such further period during which any such action or proceeding may be pending shall be entitled in their

absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Indenture as they may deem expedient.

Section 1104. ***Modifications by Unanimous Consent.***

1. The Issuer and the Trustee, with the written consent of an Authorized Department Representative, may enter into a Supplemental Indenture modifying or amending the terms and provisions of this Master Indenture or consenting to any modification or amendment of the Memorandum and Assignment and the rights and obligations of the Issuer and of the Owners of the Bonds hereunder or thereunder in any respect with the consent of the Owners of all the Bonds Outstanding, which consent shall be given as provided in Section 1103 hereof, except that no notice to Bondowners by mailing shall be required.

2. The terms and provisions of this Master Indenture and the rights and obligations of the Issuer and the Owners of the Bonds thereunder may be modified or amended with respect to a particular Series, with the written consent of an Authorized Department Representative, upon the execution and delivery by the Issuer and the Trustee of a Supplemental Indenture and the consent of the Owners of all Outstanding Bonds of the particular Series, which consent shall be given by written notice to the Trustee, and no notice to Bondowners by mailing shall be required.

Section 1105. ***Exclusion of Bonds.*** Bonds owned or held by or for the account of the Issuer shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this Article, and the Issuer shall not be entitled with respect to such Bonds to give any consent or take any other action provided in this Article. At the time of any consent or other action taken under this Article, the Issuer shall furnish the Trustee a certificate of an Authorized Issuer Representative, upon which the Trustee may rely, describing all Bonds so to be excluded.

Section 1106. ***General Provisions.***

1. Neither this Master Indenture nor the Memorandum and Assignment shall be modified or amended in any respect except as provided in and in accordance with and subject to provisions of this Article.

2. Any Supplemental Indenture referred to and permitted or authorized by Section 1101 hereof may be entered into by the Issuer and the Trustee without the consent of any of the Bondowners, but shall become effective only on the conditions, to the extent and at the time provided in said Section. Prior to entering into any Supplemental Indenture, the Trustee shall receive an opinion of Bond Counsel, in form and substance satisfactory to the Trustee, stating that such Supplemental Indenture has been duly and lawfully entered into by the Issuer in accordance with the provisions of this Master Indenture, is authorized or permitted by this Master Indenture, and is valid and binding upon the Issuer, and will not adversely affect the exclusion from gross income for federal income tax purposes of any interest on the Bonds.

Section 1107. ***Notation on Bonds.*** Bonds authenticated and delivered after the effective date of any action taken as provided in this Article may, and, if the Trustee so determines shall, bear a notation by endorsement or otherwise in form approved by the Trustee as to such action, and in that case upon demand of the Owner of any Bond Outstanding at such effective date and presentation of his Bond for the purpose at the principal office of the Trustee or other Fiduciary responsible for transferring Bonds or upon any transfer of any Bond Outstanding at such effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such transfer by the Trustee or other Fiduciary responsible for transferring Bonds as to any such action. If the Trustee shall so determine, new Bonds so modified as directed by the Trustee to conform to such action shall be prepared, authenticated and delivered, and upon demand of the Owner of any Bond Outstanding shall be exchanged, without cost to such Bondowner, for Bonds Outstanding, upon surrender of such Bonds, for Bonds of the same Series and maturity then Outstanding.

Section 1108. ***Mailing.*** Any provision in this Article for the mailing of a notice or other instrument to Bondowners shall be fully complied with if it is mailed postage prepaid only to each Owner of Bonds at his address, if any, appearing upon the Register and to the Trustee.

ARTICLE XII

SUBORDINATE LIEN OBLIGATIONS

Section 1201. ***Subordinate Lien Obligations.*** The Issuer reserves the right to issue for any lawful purpose, bonds, notes, or other obligations secured in whole or in part by liens on the Revenues that are junior and subordinate to the lien on Revenues securing payment of the Bonds, but only with the written consent of the Department. Such subordinate lien obligations may be further secured by any other source of payment lawfully available for such purposes.

ARTICLE XIII

MISCELLANEOUS

Section 1301. ***Evidence of Signatures of Bondowners and Ownership of Bonds.***

1. Any request, consent, revocation of consent or other instrument which this Master Indenture may require or permit to be signed and executed by the Bondowners may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondowners in person or by their attorneys appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of this Master Indenture (except as otherwise therein expressly provided) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

(a) The fact and date of the execution by any Bondowner or his attorney of such instruments may be proved by a guarantee of the signature thereon by a bank or trust company or member of a national securities exchange or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or a member of a partnership, on behalf of such corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of his authority.

(b) The amount of Bonds transferable by delivery held by any Person executing any instrument as a Bondowner, the date of his holding such Bonds, and the numbers and other identification thereof, may be proved by a certificate, which need not be acknowledged or verified, in form satisfactory to the Trustee, executed by the Trustee or by a member of a financial firm or by an officer of a bank, trust company, insurance company, or financial corporation or other depository wherever situated, showing at the date mentioned that such person exhibited to such member or officer or had on deposit with such depository the Bonds described in such certificate. Such certificate may be given by a member of a financial firm or by an officer of any bank, trust company, insurance company or financial corporation or depository with respect to Bonds owned by it, if acceptable to the Trustee. In addition to the foregoing provisions, the Trustee may from time to time make such reasonable regulations as it may deem advisable permitting other proof of holding of Bonds transferable by delivery.

2. The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be provided by the Registrar.

3. Any request or consent by the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the Issuer or any Fiduciary in accordance herewith.

4. Notwithstanding any provision hereof to the contrary, whenever action hereunder is conditioned upon the consent, direction or request of the Owners of the Bonds or a percentage of the Owners of the Bonds, the Owners from which such consent, direction or request is to come from shall be construed to mean the Owners of the highest Tier of Bonds Outstanding until such Tier of Bonds is deemed paid in accordance with this Master Indenture. For purposes of this subsection, Bonds issued pursuant to subsection 2 of Section 720 shall not be considered a separate Tier of Bonds but shall be considered part of Senior Bonds.

Section 1302. ***Money Held for Particular Bonds.*** Subject to the provisions of Section 1304 hereof, the amounts held by the Trustee or Paying Agent for the payment of the interest or principal or Redemption Price due on any date with respect to particular Bonds shall,

on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owners of the Bonds entitled thereto.

Section 1303. ***Preservation and Inspection of Documents.*** All documents received by the Trustee under the provisions of this Master Indenture shall be retained in its possession and shall be subject at all reasonable times upon reasonable notice to the inspection of the Issuer, and any Bondowner and their agents and their representatives, any of whom may make copies thereof at the expense of the party so requesting.

Section 1304. ***Failure to Present Bonds.*** Anything in this Master Indenture to the contrary notwithstanding, any money held by a Fiduciary in trust for the payment and discharge of any of the Bonds which remain unclaimed for such period of time, after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, that the Owner thereof shall no longer be able to enforce the payment thereof, the Fiduciary shall at the written request of the Issuer pay such money to the Issuer as its absolute property and free from trust, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Bondowners shall look only to the Issuer for the payment of such Bonds; provided, however, that before being required to make any such payment to the Issuer, the Fiduciary shall, at the expense of the Issuer, cause to be mailed to the Owners of the Bonds entitled to such money, a notice that such money remains unclaimed and that, after a date named in said notice, which date shall be not less than 30 days after the date of the mailing of such notice, the balance of such money then unclaimed will be returned to the Issuer.

Section 1305. ***Virginia UCC Security Agreement; Filing of Financing Statements.***

1. It is the intention of the parties that this Master Indenture shall constitute a "security agreement" within the meaning of the Virginia UCC, as defined in subsection (g) of Section 904, and that the Issuer shall be the "debtor" and the Trustee on behalf of the Owners of Bonds shall be the "secured party" under such security agreement. The parties also agree that, to the greatest extent permitted by Applicable Law, each item of the Trust Estate shall constitute personal property and not an interest in real estate within the meaning of such phrase as used in Section 8.9-104(j) of the Virginia UCC and any successor provision.

2. The Issuer hereby covenants that it will cause to be filed all documents, security instruments and financing statements as it may reasonably deem necessary or desirable to protect and maintain in force the lien and pledge of, and the security interests created by, this Master Indenture. Without limitation, the Issuer shall execute and file with the Clerks of the Circuit Courts of Henrico County, Chesterfield County and the City of Richmond, Virginia, and with the Clerk of the State Corporation Commission of Virginia financing statements meeting the requirements of the Virginia UCC with respect to the Trust Estate. The Issuer shall execute and file with the aforesaid Clerks such financing or continuation statements or other documents as in the opinion of counsel to the Issuer may be necessary to maintain the perfection of the lien hereof. If the Issuer shall fail to furnish any financing or continuation statement within ten days after request by the Trustee, then pursuant to the provisions of the Virginia UCC and applicable

law, the Issuer hereby authorizes the Trustee, without the signature of the Issuer, to execute as the Issuer's attorney-in-fact (this power being coupled with an interest) and file any such financing and continuation statements. Within ten days after any filing required by this Section (other than in connection with the issuance of the first Series of Bonds issued hereunder), the Issuer shall deliver to the Trustee an opinion of counsel to the Issuer stating that such filing has been accomplished and setting forth the particulars thereof. Not more than six months nor less than one month prior to each fifth anniversary of the date of delivery of the first Series of Bonds hereunder (or such other date on which financing statements will expire), the Issuer shall deliver to the Trustee an opinion of such counsel, addressed to the Trustee, stating that no recording or filing (including any re-filing) of any instrument is necessary during the five-year period immediately succeeding such fifth anniversary date or expiration date in order to comply with this Section or, if such recording or filing is necessary, setting forth the requirements to be met and promptly thereafter shall deliver to the Trustee and opinion of such counsel showing that they have been met.

Section 1306. ***Parties Interested Herein.*** Nothing in this Master Indenture or any Supplemental Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person, other than the Issuer, the Trustee, the Owners of the Bonds and the Department, any right, remedy or claim under or by reason of this Master Indenture or any Supplemental Indenture or any covenant, condition or stipulation hereof or thereof; and all the covenants, stipulations, promises and agreements in this Master Indenture and each Supplemental Indenture contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Trustee, the Owners of the Bonds, FD/MK and the Department thereunto appertaining.

Section 1307. ***No Recourse on the Bonds.*** No recourse shall be had for the payment of the principal or Redemption Price of or interest on the Bonds or for any claim based thereon or for any other obligation under this Master Indenture or on any Supplemental Indenture against any officer or employee of the Issuer or any person executing the Bonds.

Section 1308. ***Limitation on Association Liability; No Individual Liability.*** The obligations of the Issuer under this Indenture are limited obligations, payable solely from the assets of the Issuer made available hereunder; and recourse against the Issuer shall be limited to such sources. No covenant or agreement contained in the Bonds, this Master Indenture or any Supplemental Indenture shall be deemed to be the covenant or agreement of any member of the Board or any officer, agent, employee or representative of the Issuer, and neither the officers, agents, employees or representatives of the Issuer nor any person executing the Bonds shall be personally liable thereon or be subject to any personal liability or accountability by reason of the issuance thereof, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the execution of this Master Indenture, any Supplemental Indenture and the issuance of the Bonds unless liability is the result of fraud, intentional misrepresentation, willful misconduct or knowing violation of criminal law by such member of the Board, officer, agent, employee or representative.

Section 1309. ***Master Indenture and Supplemental Indentures to Constitute Contracts.*** In consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Master Indenture and each Supplemental Indenture shall be deemed to be and shall constitute a contract among the Issuer, the Trustee and the Owners of the Bonds; and the pledge made in this Master Indenture and the covenants and agreements herein and therein set forth to be performed by or on behalf of the Issuer shall be for the equal benefit, protection and security of the Owners of any and all of the Bonds, all of which, regardless of the time or times of their authentication and delivery or maturity, shall be of equal rank within preference, priority or distinction of any of the Bonds over any other thereof, except as otherwise provided in or permitted by this Master Indenture or Supplemental Indenture.

Section 1310. ***Notice.*** Any notice, demand, direction, request, or other instrument authorized or required by this Master Indenture to be given to or filed with the Issuer, the Issuer or the Trustee shall be deemed to have been given only upon receipt. Any notice shall be sent by registered or certified mail or by overnight delivery, postage prepaid, to the address specified below or, to such other address as may be designated in writing by the parties:

If to Issuer:	Pocahontas Parkway Association c/o Williams, Mullen, Christian & Dobbins Two James Center 1021 East Cary Street Richmond, Virginia 23219 Fax: (804) 783-6507 Attn: Ralph L. "Bill" Axselle, Esquire
With a copy to:	R. Hart Lee, Esquire Williams, Mullen, Christian & Dobbins Two James Center 1021 East Cary Street Richmond, Virginia 23219 Fax: (804) 783-6507
If to Trustee:	Crestar Bank 919 East Main Street Richmond, Virginia 23219 Fax: (804) 782-7855 Attn: K. A. Pickerel
With a copy to:	Michael W. Graff, Jr., Esquire McGuire, Woods, Battle & Boothe LLP One James Center Richmond, Virginia 23219-4030 Fax: (804) 775-1061

If to Department:	Virginia Department of Transportation 1401 East Broad Street Richmond, Virginia 23219 Attn: Commissioner Fax: (804) 786-6250
With a copy to:	James F. Hayes, Esquire Senior Assistant Attorney General 900 East Main Street Richmond, Virginia 23219 Fax: (804) 786-9136
And to:	Geoffrey S. Yarema, Esquire Nossaman, Guthner, Knox & Elliott, LLP 445 S. Figueroa Street, 31st Floor Los Angeles, California 90071-6302 Fax: (213) 612-7801

Such notice may be made by facsimile transmission (a) where the transmitting party includes a cover sheet identifying the name, location and identity of the transmitting party includes a cover sheet identifying the name, location and identity of the transmitting party, the phone number of the transmitting device, the date and time of transmission and the number of pages transmitted (including the cover page), (b) where the transmitting device or receiving device records verification of receipt and the date and time of transmission receipt and the phone number of the other device, and (c) where the facsimile transmission is immediately followed by sending a copy of the original in the manner provided above.

Section 1311. ***Governing Law.*** This Master Indenture and each Supplemental Indenture shall be governed in all respects, including validity, interpretation and effect, by, and shall be enforceable in accordance with, the laws of the State.

Section 1312. ***Severability of Invalid Provisions.*** If any one or more of the covenants or agreements provided in this Master Indenture or any Supplemental Indenture on the part of the Issuer or the Trustee to be performed shall be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Master Indenture or any Supplemental Indenture.

Section 1313. ***Successors.*** Whenever in this Master Indenture or any Supplemental Indenture the Issuer or the Trustee is named or referred to, it shall be deemed to include any entity succeeding to the principal functions and powers of the Issuer or the Trustee, as appropriate, and all the covenants and agreements in this Master Indenture and each

Supplemental Indenture by or on behalf of the Issuer or the Trustee shall bind and inure to the benefit of said successor whether so expressed or not.

Section 1314. ***Holidays.*** If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Master Indenture, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Master Indenture, and no interest shall accrue for the period after such nominal date.

Section 1315. ***Execution in Several Counterparts.*** This Master Indenture may be simultaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

Section 1316. ***Balances in Certain Funds and Accounts.*** All amounts remaining on deposit in the Funds and Accounts after the principal or Redemption Price of and interest due or to become due on the Bonds has been paid or deemed to have been paid pursuant to Article VIII hereof shall be delivered to the Department.

Section 1317. ***Conflicts Among Master Indenture and Supplemental Indenture.*** Notwithstanding any other provision of this Master Indenture or any Supplemental Indenture, if any provision of any of this Master Indenture or any Supplemental Indenture conflicts with any provision of any of the other of such instruments, the provisions of such instruments shall control in the following order of priority: first, such Supplemental Indentures in reverse order of the dates on which they were adopted (with the ones most recently adopted being given priority); and second, this Master Indenture.

IN WITNESS WHEREOF, the Issuer has caused this Master Indenture to be executed by its President, and the Trustee has caused this Master Indenture to be executed on its behalf by one of its duly authorized officers, all as of the day and year first written above.

POCAHONTAS PARKWAY ASSOCIATION

By:_____
Joseph R. Jenkins, President

CRESTAR BANK, as Trustee

By:_____
K. A. Pickrell, Vice President

JOINDER OF FD/MK

FD/MK joins in the execution of this Master Indenture solely for the purpose of granting and assigning to the Trustee and its successors in trust hereunder a pledge of, security interest in and lien on all right, title and interest of FD/MK in and to all properties and property interests comprising the Trust Estate, with all rights and privileges appurtenant thereto, arising under the Comprehensive Agreement from the date hereof to and including the Transition Date as additional security for the payment of the principal and Redemption Price of and interest on the Bonds as the same may become due and payable (whether at maturity, by prior redemption, or otherwise) and the performance and observance of all of the covenants and conditions contained in this Master Indenture, subject, however, to the terms and provisions hereof.

IN WITNESS WHEREOF, FD/MK has caused this Master Indenture to be executed by its duly authorized representative as of the day and year first above written.

FD/MK LIMITED LIABILITY COMPANY

By:_____

James R. Carroll, President

APPENDIX A

DEFINITIONS

DEFINITIONS

Account or **Accounts** means any one or more of the accounts from time to time created in any of the Funds established by the Indenture.

Accountant means any nationally recognized certified public accountant or firm of certified public accountants or accounting corporation of recognized experience and qualifications, selected by the Association, and may be the accountant or firm of accountants that regularly audits the books of the Association.

Accountant's Certificate means a certificate or opinion signed by the Accountant.

Accreted Value for Bonds of any Series shall have the meaning set forth in the Supplemental Indenture authorizing the issuance of such Series.

Aggregate Debt Service means, for any Fiscal Year or other 12-month period, as of the date of calculation, the sum of the amounts of Debt Service for such Fiscal Year or other 12-month period. In determining Aggregate Debt Service on Second Tier Subordinate Bonds for any Fiscal Year or other 12-month period, such Aggregate Debt Service shall be the sum of monthly payments during such Fiscal Year or other 12-month period assuming that such monthly payments are calculated to result in full amortization in equal, consecutive combined principal and interest payments at an interest rate equal to the higher of the actual stated interest rate or the maximum interest rate for a term equal to the remaining term of the applicable Second Tier Subordinate Bonds assuming the original term was 30 years.

Agreement Date, for purposes of the Comprehensive Agreement, means the date written on the cover page of the Comprehensive Agreement, and for purposes of the Design-Build Contract, means the date written on the cover page of the Design-Build Contract.

Amortized Value means the value of an Investment Security calculated by adding the amount of the premium paid upon acquisition to the par value of the Investment Security or deducting the amount of the discount received upon acquisition from the par value of the Investment Security, as the case may be, after such premium or discount has been amortized according to Generally Accepted Accounting Principles for the number of days since the acquisition of the Investment Security.

Annual Budget means the operating plan and budget for each Fiscal Year of the Association prepared by Association pursuant to Section 8.5(a) of the Comprehensive Agreement and Section 717 of the Master Indenture and

approved by Department pursuant to Section 8.5(b) of the Comprehensive Agreement and Section 711 of the Master Indenture.

Association means Pocahontas Parkway Association, a Virginia nonstock, nonprofit corporation, and its permitted successors and assigns, and means the "Issuer" in the context of the Indenture.

Association Default means any of the events listed in Section 17.4 of the Comprehensive Agreement.

Association Indemnitee means and includes the Association and all of its affiliates and subsidiaries, and each of their respective members, partners, managers, directors, officers, employees, authorized agents and authorized representatives.

Association Party means and includes the Association and any director, officer, employee, agent, contractor (other than Department), subcontractor (other than Department) at any tier or any representative of the Association.

Authenticating Agent means any bank or trust company or national or state banking association designated to authenticate the Bonds of any Series on behalf of the Issuer or the Trustee, as provided by any Supplemental Indenture, and its successor or successors.

Authorized Association Representative or Authorized Issuer Representative means any person designated to act on behalf of the Association or the Issuer by a certificate signed by its President or any Vice President and filed with Department, the Trustee and FD/MK.

Authorized Department Representative means any person designated to act on behalf of Department by a certificate signed by the Commissioner and filed with FD/MK, the Trustee and the Association.

Authorized FD/MK Representative means any person designated to act on behalf of FD/MK by a certificate signed by its President or any Vice President and filed with Department, the Trustee and the Association.

Available Construction Fund Amount means the amount of funds in the Construction Fund currently available to pay Costs of the Project, which amount shall equal at any given time of calculation (a) the funds then remaining in the Construction Fund, plus (b) interest and profits earned and to be earned, but not yet credited to the Construction Fund, under the investment agreement or agreements under which funds in the Construction Fund are invested, excluding interest and profits earned and to be earned and required to be, but not yet, credited to the Series 1998D Bond Proceeds Account, to the Rebate Fund, to any Account for the purpose of paying interest on any Series of Bonds or to the Retainage Account, minus (c) all amounts deposited in or credited to any

Account of the Construction Fund for the purpose of paying interest on any Series of Bonds, minus (d) all funds in the Series 1998D Bond Proceeds Account reserved for payment of costs of promoting, marketing and advertising the Project and its opening to the public incurred prior to the commencement of revenue operations on the Project, minus (e) interest and profits deposited in or credited to the Retainage Account and the Series 1998D Bond Proceeds Account.

AVI means automatic vehicle identification equipment used as part of ETTM Equipment.

Betterment means upgrading or expanding the capacity of a Utility facility being relocated that is not attributable to construction of the Project or that is made solely for the benefit of and at the election of the Utility Owner. The primary aim of Betterment is to make the Utility facility more useful, functional, durable, efficient or of greater capacity. However, the term "Betterment" shall not include modifications to a Utility facility which enable achievement of greater usefulness, functionality, durability, efficiency or capacity at costs equal to or less than the costs of a "like-for-like" replacement or relocation.

Board means the board of directors of the Association, or any successor in function.

Bond or **Bonds** means any bond or bonds, as the case may be, authenticated and delivered under and pursuant to the Indenture, including any Tax-Exempt Bond or Bonds, and the SIB Bond and the Contractor Bond.

Bond Counsel means Hunton & Williams or any other attorney or firm of attorneys, selected by the Issuer and acceptable to the Trustee and Department, whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

Bond Owner, Owner of Bonds or **Owner** means, when used with respect to Bonds, the registered owner of any Bond.

Bridge Foundation Work means that portion of the bridge substructures for all Project bridges from the top of the footing down into the support material for the structure. This work shall include all materials, labor, equipment and incidentals necessary to complete the work. It includes, but is not limited to, structure excavation, form/false work, hydraulic cement concrete, reinforcing steel, piles and drill shafts with their respective associated testing.

Business Day means any Day other than a Saturday, Sunday or other day on which The New York Stock Exchange or banks are authorized or required to close in New York, New York or Richmond, Virginia.

Capitalized Interest Account means any Account into which capitalized interest with respect to a Series of Bonds is to be deposited as provided for in a Supplemental Indenture.

Change Order means a written amendment to the terms and conditions of the Contract Documents issued in accordance with Article 19 of the Design-Build Contract.

Claims means any and all claims, disputes, disagreements, causes of action, demands, suits, proceedings, damages, injuries, liabilities, obligations, losses, costs and expenses.

Code means the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations proposed or in effect with respect thereto.

Commissioner means the Commonwealth Transportation Commissioner or any successor in function.

Competitive Transportation Facilities means any State Highway, expressway or freeway crossing of the James River (a) which is within three miles of the centerline of the Project's bridge crossing of the James River, (b) which is first placed into service after the Agreement Date and (c) the operation of which could reasonably be foreseen to have a materially adverse impact on the ability of Association to cover Debt Service and to observe its covenants under the Indenture.

Completion Bonds means Bonds issued pursuant to Section 302.3(a) of the Master Indenture.

Completion Guaranty means the Guaranty of Performance and Completion issued by FC, MKC (Delaware) and MKC (Ohio) on the Agreement Date in the form of Exhibit D to the Comprehensive Agreement, jointly and severally guaranteeing payment, performance and completion of all of FD/MK's obligations under the Comprehensive Agreement, the Project Financing Agreement and the Design-Build Contract.

Compliance Order means any written order of Department, issued after the Final Acceptance Date, which directs the Association to undertake certain improvements to the Project (a) to conform to changes in safety standards or methodologies agreed to or adopted by Department for similar portions of State Highways, or (b) to correct a specific safety condition affecting the Project which Department has determined to exist by investigation or analysis.

Compounding Date for Bonds of any Series shall have the meaning set forth in the Supplemental Indenture authorizing the issuance of such Series.

Comprehensive Agreement means the Comprehensive Agreement to Develop and Operate Route 895 Connector between FD/MK and Department dated as of June 3, 1998, and all exhibits thereto, as supplemented or amended from time to time.

Conformity means compliance with the most stringent customary manufacturing and construction tolerances where working tolerances are not specified. Where working tolerances are specified, conformity means compliance with the most stringent of such tolerances.

Construction Documents means all Shop Drawings and Working Drawings, catalog cuts and samples necessary for construction of the Project in accordance with the Contract Documents and to inspect that construction.

Construction Fund means the Route 895 Connector Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture, and includes any separate Accounts or Subaccounts established by the terms of any Supplemental Indenture or any agreement pursuant thereto.

Construction Segment means each or any segment of the Project which Department and FD/MK designate pursuant to Article 13 of the Design-Build Contract for the purpose of scheduling construction.

Construction Traffic Management Plan means the plan for traffic management submitted and approved in accordance with Section 9.1 of the Design-Build Contract.

Consultant means any Person at the time retained by or on behalf of the Association (or, to the extent specifically provided in the Indenture or in any Supplemental Indenture, by or on behalf of the Trustee or Department) for the benefit of the Bond Owners to carry out the duties imposed by or pursuant to the Indenture or a Supplemental Indenture, which Person shall be experienced and have a national and favorable reputation in the matters for which such Person is so employed.

Consulting Engineer means any Consultant with expertise in engineering. The Consulting Engineer may be an employee of Department and such employee need not have a national reputation.

Contingency means the amount available for payment of certain Costs of the Project in excess of the Contract Price or Oversight Budget, as more specifically described in Section 14.3 of the Design-Build Contract.

Continuing Disclosure Agreement means, collectively, the Continuing Disclosure Agreement between the Association and the Trustee and the Continuing Disclosure Agreement between FD/MK and the Trustee, each dated as of July 1, 1998.

Contract Documents means the Design-Build Contract, including all appendices, the Scope of Work, the Standard Specifications, the Preliminary Engineering (subject to Contractor's obligation to provide the Plans and Specifications free of any errors, omissions, inconsistencies and other defects which may be contained in the Preliminary Engineering) and the Plans and Specifications, including all amendments to any of the foregoing and all Change Orders issued.

Contractor means FD/MK.

Contractor Bond means the Series 1998E Bond issued by the Association to FD/MK under the Indenture and in accordance with the Contractor Loan Agreement on the Financial Closing Date and evidencing advances, if any, under the Contractor Loan Agreement, and any and all amendments and supplements thereto.

Contractor Claim means a separate demand by Contractor for (a) a time extension which is disputed by Department, or (b) payment of money or damages arising from work done by or on behalf of Contractor in connection with the Design-Build Contract which is disputed by Department. A Contractor Claim will cease to be a Contractor Claim upon resolution thereof, including resolution by withdrawal or release thereof or delivery of a Change Order or Design-Build Contract amendment signed by all parties.

Contractor Bond Draw Request means a draw request from the Trustee to FD/MK on the Draw Request and Certificate form attached as Exhibit 3 to the Master Indenture.

Contractor Loan Agreement means the Loan Agreement among FD/MK the Association in the form of Exhibit I to the Comprehensive Agreement, and any and all amendments and supplements thereto.

Contractor Party means and includes Contractor, any Related Party and any member company, manager, partner, director, officer, employee, agent, contractor (other than Department), subcontractor (other than Department) at any tier or any representative of Contractor or any Related Party.

Contract Price shall have the meaning set forth in Section 14.1.1 of the Design-Build Contract.

Costs of the Project means the following (provided, however, that if such costs are to be paid out of the proceeds of Tax-Exempt Bonds, "Costs of the Project" shall include only those costs permitted by the Code and which are in compliance with Section 706 of the Indenture):

(a) all amounts payable under the Design-Build Contract and all other contractors' fees and charges, the cost of labor, services, materials and

supplies used or furnished in site improvement and construction, training and testing costs, the cost of purchasing and installing machinery, equipment, facilities, rolling stock and ancillary items, and the cost of utility services;

(b) the cost of acquiring by purchase, and the amount of any deposit in court or award or final judgment in, or any settlement or compromise of, any proceeding to acquire by eminent domain, such lands, property, property rights, rights of way, easements, franchises and other interests as may be deemed necessary or convenient, options and partial payments thereon, the cost of demolishing or removing or relocating any buildings or structures or land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the amount of any incidental or consequent damages and the amount of any legal costs associated with such acquisition;

(c) the costs of preparing surveys, cost estimates, appraisals, plans and specifications (including any preliminary study or planning or any aspect thereof), traffic revenue studies fees for architectural, engineering, supervisory and consulting services, planning and development costs, the costs of obtaining governmental or regulatory permits, licenses, franchises and approvals, and any other fees or expenses necessary to establishing feasibility or practicability;

(d) Department's costs of services described in Sections 10.2(b) and (c) of the Comprehensive Agreement.

(e) Operating Expenses and amounts required to be deposited to the Renewal and Replacement Fund;

(f) to the extent not paid by the contractor, premiums of all insurance and surety and payment bonds required to be maintained, all claims and expenses relating to injury and damage, and casualty and liability insurance premiums in connection with insurance against loss from such claims;

(g) all federal, state and local taxes and payments in lieu of taxes legally required, or deemed advisable by the Issuer;

(h) interest to accrue on the Bonds during design and construction of the Project plus the time period thereafter, if any, covered by funds on deposit in the Capitalized Interest Account under the Indenture, and interest accrued during design and construction of the Project on other obligations of the Issuer to finance Costs of the Project;

(i) to the extent provided by Supplemental Indenture, any amount otherwise required to pay principal or Redemption Price of any Bonds;

(j) any amount required to fund or maintain the Debt Service Reserve Fund;

(k) repayment of all temporary borrowings incurred by or on behalf of, or advances made by or on behalf of, the Issuer in connection with the Project;

(l) Costs of Issuance, to the extent not otherwise described in this definition;

(m) all items of expense relating to any guarantee, bond insurance policy or Related Financial Transaction, to the extent not otherwise described in this definition;

(n) all amounts payable by Department or the Association under the Design-Build Contract or any other contract, agreement or other arrangement relating to the acquisition, design, construction and equipping of the Project; and

(o) all other costs and expenses relating to the acquisition, design, construction and equipping of the Project, including, but not limited to, costs of environmental mitigation and remediation.

Notwithstanding the foregoing, Costs of the Project shall not include any interest on debt (except as provided otherwise in subsection (h) above) or repayment of principal in respect of debt, returns on or of capital, costs funded from Reserve Accounts or Current Expenses. Costs of the Project shall be reduced by an amount equal to the sum of (i) the aggregate amount of grants of cash and (ii) the costs of goods and/or services in kind provided to Operator and used by Operator to pay Costs of the Project and which Operator has no legal obligation to repay. Costs of the Project also shall be reduced by the amount of any insurance proceeds, judgments and awards, including but not limited to condemnation awards, Operator receives on account of or in connection with previously incurred Costs of the Project.

Costs of Issuance means the items of expense relating to the authorization, sale and issuance of Bonds, which items of expense may include, without limitation: travel expenses; printing costs; costs of reproducing documents; computer fees and expenses; filing and recording fees; initial fees and charges of the Trustee, Registrar, Paying Agent, and other Fiduciaries; initial fees and charges of banks, insurers or other parties pursuant to guarantees, bond insurance policies and Related Financial Transactions; bond discounts; fees and expenses of underwriters; legal fees and charges; consulting fees and charges including costs of traffic studies and other feasibility studies conducted in connection with the sale of the Bonds; auditing fees and expense; financial advisor's fees and charges; costs of credit ratings; insurance premiums; fees and charges for the execution, transportation and safekeeping of Bonds; and any other administrative or other costs of issuing such Bonds and investing the Bond proceeds.

CPM/Payment Schedule means the most current schedule for the Project approved by Department as described in Section 13.3 of the Design-Build Contract.

Critical Path means the longest non-intermittent path between the first and the last event of the Project shown on the CPM/Payment Schedule (or, if more than one such path exists, each such path).

CTB means the Commonwealth Transportation Board, a state board of the State affiliated with the Department of Transportation.

Current Expenses means the Association's and/or Department's current out-of-pocket expenses of management, administration, maintenance, repair, preservation and operation of the Project and shall include, without limiting the generality of the foregoing, all expenses:

(a) to establish, market, collect, protect, adjust, transfer and account for tolls;

(b) to pay premiums and reserves for insurance;

(c) of management, administration and engineering relating to maintenance, repair and operation of the Project;

(d) of police services and incident response;

(e) of the Trustee and any securities depository;

(f) of legal services relating to Project management and operation;

(g) of marketing, promotion and advertising;

(h) to pay sales and use taxes, property taxes and any other taxes, fees, charges or levies (not based on income or revenue) imposed by a governmental entity and directly related to the Project or Project Right of Way or the operation thereof;

(i) of administering and maintaining the corporate existence of Association, and of administering Association's compliance with its obligations under the Project Agreements;

(j) compensation due to Department under Section 8.2(e) of the Comprehensive Agreement or for services, including Oversight Services, rendered after the Opening Date to the extent provided in Section 10.2 of the Comprehensive Agreement; and

(k) otherwise required or permitted to be paid by the Association or Department under the provisions of the Indenture, the Comprehensive Agreement or by law for management and operation of the Project.

Notwithstanding the foregoing, "Current Expenses" shall not include payments made by the Association or the Trustee to any reserve accounts under the Indenture, any expenses of Extraordinary Maintenance and Repair, or any payments of Debt Service.

Custom Software means (a) all Software and associated documentation that is first conceived or first actually reduced to practice in connection with development of the Project, (b) all revisions, modifications, derivations, translations, abridgments, condensations and expansions of such Software or other forms in which such Software may be recast, transformed or adapted, and (c) all compilations that incorporate the work or matter described in subsection (b) above.

Days means calendar days, unless otherwise designated.

Debt Service means, with respect to any particular Fiscal Year or other 12-month period, and as of any calculation date, an amount equal to the sum of:

(a) all principal of and interest on the applicable Outstanding Bonds, that is payable during such period; and

(b) the Redemption Price of such Outstanding Bonds payable during such period with respect to any Outstanding Bonds that are to be redeemed during such period pursuant to mandatory redemption provisions or pursuant to optional redemption provisions that have been exercised by the Issuer as of the calculation date.

For purposes of this definition:

(1) Debt Service shall not include the principal and Redemption Price of and interest on Outstanding Bonds to the extent the same is to be paid from proceeds of Bonds or other funds held by the Trustee or an escrow agent for the benefit of the Owners of Outstanding Bonds pursuant to Section 502 of the Indenture, and investment earnings on such proceeds or other funds.

(2) Interest paid and payable on Bonds with respect to which a Related Financial Transaction is in effect shall be determined by taking into account (in a manner that does not result in the duplication of payment requirements): (i) regularly scheduled payments due pursuant to such transaction so long as no failure to pay or event of default under such transaction has occurred and is continuing and (ii) upon termination of such transaction (by reason of an event of default or otherwise), amounts actually paid with respect to the termination of such transaction.

Debt Service Fund means the Route 895 Connector Toll Road Revenue Bond Debt Service Fund established by Section 502 of the Indenture.

Debt Service Reserve Fund means the Route 895 Connector Toll Road Revenue Bond Debt Service Reserve Fund established by Section 502 of the Indenture.

Debt Service Reserve Fund Requirement means the Senior Bonds Debt Service Reserve Account Requirement and First Tier Subordinate Bonds Debt Service Reserve Account Requirement.

Defeasance Investment Securities means any one or more of the following securities, if and to the extent the same are, at the time acquired, Investment Securities: (i) non-callable securities which are direct obligations of, or which are unconditionally guaranteed by, the United States; and (ii) any other security approved in writing by each Rating Agency.

Defect means, with respect to each element or aspect of the Work for which acceptable tolerances are specified in the Contract Documents or Reference Documents, any such element or aspect not conforming to such specified tolerances, and with respect to each element or aspect of the Work for which acceptable tolerances are not specified in the Contract Documents or Reference Documents, any such element or aspect not conforming to industry standards applicable thereto as of the time such element or aspect of the Work is undertaken; provided that in all instances "Defect" includes any element or aspect of the Work not conforming to the Design-Build Contract, Plans and Specifications, Laws, Regulations and Ordinances or Regulatory Approvals.

Department means the Virginia Department of Transportation, a department of the State, and any other State agency succeeding to the powers, authorities and responsibilities of Department invoked by or under the Comprehensive Agreement.

Department Capital Cost Savings Account means the Department Capital Cost Savings Account of the Route 895 Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture.

Department-Caused Delays means unavoidable delays, to the extent that they affect a Critical Path, arising from the following matters and no others: (a) a suspension order pursuant to Section 20.1 of the Design-Build Contract (but not exceeding 24 hours), (b) Directed Changes, (c) failure of Department to provide responses to submittals and matters for which response by such Person is required, within the time periods indicated in the Contract Documents, (d) uncovering, removing and restoring Work, to the extent provided in Section 5.2.2.5 of the Design-Build Contract, and (e) any improper failure to act by Department within a reasonable time after delivery of notice by Contractor to Department requesting such action. Any court order to suspend Work shall not

be considered a Department-Caused Delay (although it may qualify as a Force Majeure event) despite the fact that Department may specifically direct Contractor to comply with the court order.

Department Default shall have the meaning set forth in Section 17.7 of the Comprehensive Agreement.

Department Standards means the requirements applicable to performance of the Work contained in the manuals, standards and procedures set forth in the Reference Documents.

Design-Build Contract means the Design-Build Contract between Department and FD/MK dated as of June 3, 1998, a copy of which is attached to the Comprehensive Agreement as Exhibit C, and any and all amendments and supplements thereto.

Differing Site Condition means any permanent condition on, within, under or of the Project Right of Way (such as but not limited to presence of Hazardous Substances or archaeological, paleontological, biological or cultural resources) which is materially different from (a) that represented by the data and information provided or reasonably available to Contractor as of the Agreement Date or (b) that which would have been discoverable by reasonable site investigation prior to the Agreement Date in accordance with recognized industry standards, provided that subsection (b) above shall not apply in determining whether any change in location of the Plume is a Differing Site Condition. A Differing Site Condition shall be deemed to include all manifestations of the same condition.[1]

Directed Change means any change in the Work (including changes in the standards applicable to the Work) which Department has directed Contractor to perform by Directive Letter pursuant to Section 19.3.1 of the Design-Build Contract or by Change Order under Section 19.3.2 of the Design-Build Contract. The term shall also include changes in the Work which are directly attributable to delays caused by bad faith actions, active interference, gross negligence or comparable tortious conduct by Department. The fact that Department has delivered a Directive Letter does not necessarily mean that a change in the Work has occurred.

Directive Letter means each letter issued by Department pursuant to Section 19.3.1 of the Design-Build Contract.

1/ For example, if a given geologic formation is continuous and affects the Project Right of Way in more than one location, all such locations are together part of the same "condition." Conversely, if, for example, a location is affected by a geologic fault and a nearby location is affected by a rock formation, each would be a separate "condition." Similarly, each and every discrete archeological site would be a separate "condition."

Discretionary Directed Change means any Directed Change other than a Safety Directed Change.

Draft Plans and Specifications means all drawings (including plans, elevations, sections, details and diagrams) furnished by Contractor showing the sizes, shapes and location of component elements comprising the Project and all specifications, reports, calculations, records and submittals necessary for design of the Project furnished by Contractor as described in Article 3 of the Design-Build Contract.

Draw Request means a draw request from FD/MK on the Draw Request and Certificate form attached as Exhibit 1 to the Master Indenture.

EIS means that certain signed final environmental impact statement, record of decision and re-evaluation for the Project prepared and approved by FHWA in 1994.

Environmental Laws means all Laws, Regulations and Ordinances now or hereafter in effect relating to the environment or to emissions, discharges, releases or threatened releases of Hazardous Substances into the environment including into the air, surface water or ground water or onto land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances or otherwise relating to the protection of public health, public welfare or the natural environment (including protection of nonhuman forms of life, land, surface water, groundwater and air) including the statutes listed in the definition of Hazardous Substances; the National Environmental Policy Act, as amended, 42 U.S.C. §§ 4321 et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. §§ 651 et seq.; the Hazardous Materials Transportation Act, as amended, 49 App. U.S.C. §§ 1801 et seq.; the Endangered Species Act, as amended, 16 U.S.C. §§ 1531 et seq.; the Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq.; and the Migratory Bird Treaty Act, 16 U.S.C. §§ 703 et seq.

Escrow Material means all Source Code and Source Code Documentation with respect to Proprietary Software, including all relevant commentary, explanations and other documentation, as well as instructions to compile such Source Code, plus all modifications, additions or substitutions made to such Source Code and Source Code Documentation by the Proprietary Software supplier.

ETTM means electronic toll and traffic management.

ETTM Data means all data generated by or accumulated in connection with the operation of the ETTM System, including but not limited to customer lists, customer identification numbers, customer account information and billing records and other customer specific information, and including but not limited to

use and enforcement data, origin and destination information, ETTM performance statistics, and real time traffic flow information.

ETTM Equipment means the AVI equipment; video monitoring equipment; manual, automatic and electronic toll collection equipment; the transportation management system equipment; communications equipment; and all other computer hardware necessary to meet the performance specifications for ETTM set forth in the Contract Documents.

ETTM Facilities means the administration/operations building, toll booths, canopies, utility connections, lighting facilities, pedestrian tunnels, etc.

ETTM System means the ETTM Equipment and the Software which monitors, controls or executes the ETTM Equipment.

Event of Default, for purpose of the Indenture, means an Event of Default as such term is defined in Section 902 of the Indenture, and for purposes of the Design-Build Contract, shall have the meaning set forth in Section 25.1 of the Design-Build Contract.

Extraordinary Completion Bonds means Bonds issued at the direction of the Department, in the case of insufficient funds to complete the Project, pursuant to subsection 2 of Section 720 of the Master Indenture.

Extraordinary Maintenance and Repair means maintenance, repair, renewal, reconstruction or replacement of any portion or component of the Project of a type which is not normally included as an annually recurring cost in Department's roadway maintenance and repair budgets.

Fair Market Value means, as of any particular time: (i) as to Investment Securities whose bid and asked prices are published on a regular basis in a financial journal or publication of general circulation in the United States of America, the bid price for such Investment Securities so published on or most recently prior to the date of valuation by the Trustee, or (ii) as to Investment Securities whose bid and asked prices are not published on a regular basis in a financial journal or publication of general circulation in the United States of America, the average bid price for such Investment Securities at the date of valuation by the Trustee, as reported to the Trustee by any three nationally recognized dealers in such Investment Securities.

FC means Fluor Corporation, a Delaware corporation, and its successors.

FD/MK means FD/MK Limited Liability Company, a Delaware limited liability company, and its permitted successors and assigns.

FD/MK Default shall have the meaning set forth in Section 17.1 of the Comprehensive Agreement.

FD/MK Indemnitee means and includes FD/MK and all of its member companies, parents, affiliates and subsidiaries, and each of their respective managers, directors, officers, employees, authorized agents and authorized representatives.

Fiduciary or **Fiduciaries** means the Trustee, the Registrar, the Paying Agent, and any escrow, authenticating or other agent of the Issuer or of any other Fiduciary, or any or all of them, as the context may require.

Final Acceptance means the occurrence of the events described in subsections (a) through (h) inclusive of Section 18.2.1 of the Design-Build Contract.

Final Acceptance Date means the date on which Final Acceptance occurs under the Design-Build Contract.

Financial Closing Date means the date on which the Bonds have been issued, sold and delivered to investors in accordance with the provisions of the Indenture.

Financial Transaction means any rate swap transaction, basis swap, cap transaction, floor transaction, hedge, collar transaction; any other "Transaction" as defined in the 1992 U.S. Municipal Counterparty Definitions published by the International Swap Dealers Association, Inc. or any amendments to or subsequent editions of such Definitions or any similar transaction (regardless of how defined) permitted under any such amendments to or more recent editions of such Definitions or of any similar publications of such association or any similar organization; any transactions similar to any of the foregoing; or any combination of any of the transactions described in this definition.

First Supplemental Indenture means the First Supplemental Indenture authorizing the issuance of the Series 1998 Bonds substantially in the form attached as Exhibit G to the Comprehensive Agreement.

First Tier Subordinate Bonds mean any Bonds designated as "First Tier Subordinate Bonds" by a Supplemental Indenture.

First Tier Subordinate Bonds Debt Service Account means the First Tier Subordinate Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

First Tier Subordinate Bonds Debt Service Reserve Account Requirement means the lesser of (i) 10 percent of the issue price within the meaning of the Code of the applicable First Tier Subordinate Bonds, (ii) the maximum annual principal and interest requirements for the applicable First Tier Subordinate Bonds, or (iii) 125 percent of the average annual principal and interest requirements for the applicable First Tier Subordinate Bonds.

Fiscal Year means the consecutive 12-month period beginning July 1 and ending June 30, or any other consecutive 12-month fiscal period used by Department for financial accounting purposes.

Fitch means Fitch Investors Service, Inc., its successors and assigns, and if Fitch Investors Service, Inc., shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer in its stead.

Fixed Price Amount shall have the meaning set forth in Section 14.1.1 of the Design-Build Contract.

Force Majeure means any of the following events (provided such events are beyond the control of Contractor and are not due to an act or omission of Contractor) which materially and adversely affects Contractor's obligations hereunder and which event (or the effects of which event) could not have been avoided by due diligence and use of reasonable efforts by Contractor:

(a) any tidal wave, hurricane force wind, flood, tornado or earthquake;

(b) any epidemic, blockade, rebellion, war, riot or act of sabotage or civil commotion;

(c) any strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence, except as excluded under subsection (iii) below;

(d) any unreasonable delay by a utility owner in connection with a Utility Relocation;

(e) any change in or new enactment of any written Laws, Regulations and Ordinances, or change in the judicial or administrative interpretation of, or adoption of any new Laws, Regulations and Ordinances which is materially inconsistent with Laws, Regulations and Ordinances in effect on the Agreement Date (subject to the exclusions set forth below);

(f) any suspension of the Work to the extent permitted under Section 25.4 of the Design-Build Contract; and

(g) any court order which restrains, enjoins, challenges or delays performance of the Work or the granting or renewal of any Regulatory Approval.

The term "Force Majeure" shall be limited to the matters listed above and specifically excludes from its definition the following matters which might otherwise be considered force majeure:

(i) fire or other physical destruction or damage, including lightning, explosion, drought, rain, storm or action of the elements or other acts of God not listed in subsection (a) above;

(ii) except as provided in subsection (b) above, explosion, malicious or other acts or similar occurrence;

(iii) strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence particular to a Contractor Party or the Project;

(iv) the presence at, near or on the Site of any Hazardous Substance;

(v) the presence at, near or on the Site of any archaeological, paleontological or cultural resource or endangered species;

(vi) Differing Site Conditions;

(vii) the suspension, termination, interruption, denial or failure to obtain or nonrenewal of any permit, license, consent, authorization or approval (including all Regulatory Approvals except to the extent that Department has agreed to be responsible for them in Section 10.3 of the Design-Build Contract) which is necessary for the performance of the Work or the operation or maintenance of the Project, except for any such matter resulting from a lawsuit as described in subsection (d) above;

(viii) a change in any Laws, Regulations and Ordinances (such as increases in tax rates) which causes an increase in amounts payable by Contractor for deliverables but which does not change the obligations to be performed by Contractor hereunder;

(ix) any lawsuit relating to any Regulatory Approval which is Contractor's risk under Article 10 of the Design-Build Contract, except as provided in subsection (e) above;

(x) Directed Changes;

(xi) any delay or cost risk for which coverage is to be provided through insurance required hereunder; and

(xii) all other matters not caused by Department or beyond the control of Department and not listed in subsections (a) through (g) above.

Fund or **Funds** means any one or more, as the case may be, of the separate special funds established by the Indenture or by any Supplemental Indenture.

Generally Accepted Accounting Principles or **GAAP** means such accepted accounting practice as, in the opinion of the Accountant, conforms at the time to a body of generally accepted accounting principles.

Governmental Person means any federal, state, local or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity.

Guaranteed Completion Date shall have the meaning set forth in Section 17.2.1 of the Design-Build Contract.

Guaranty of Contractor Loan Agreement means the Guaranty of Contractor Loan Agreement to be issued on the Financial Closing Date by FC, MKC (Ohio) and MKC (Delaware), in the form attached as Exhibit J to the Comprehensive Agreement, jointly and severally guaranteeing payment and performance by FD/MK under the Contractor Loan Agreement, and any and all amendments and supplements thereto.

Hazardous Substance means (a) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., the Clean Water Act, 33 U.S.C. Section 1251 et seq., the Clean Air Act, 42 U.S.C. Section 7401 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 136 et seq., Virginia Waste Management Act, §10.1-1400 et seq., Code of Virginia (1950) as amended, all as amended or as may be amended, or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes, (c) petroleum or crude oil or products thereof other than petroleum and petroleum products which are contained within regularly operated motor vehicles, (d) asbestos and (e) radioactive wastes and substances.

Implementation Guidelines means the Implementation Guidelines under the PPTA adopted by the Commissioner on July 1, 1995 governing the selection of Qualifying Transportation Facilities under the purview of Department, as such Implementation Guidelines may be amended or supplemented.

Indenture means the Master Indenture of Trust from the Association to the Trustee pursuant to which the Bonds are to be issued, substantially in the

form attached to the Comprehensive Agreement as Exhibit F, and each Supplemental Indenture entered into pursuant thereto.

Inspection means the act of viewing or looking carefully at construction, manufacturing and design and maintenance practices, processes and products, including document control and Shop Drawing review, to ensure the practices, processes and products comply with the quality requirements contained in the Contract Documents.

Intellectual Property means ETTM books and records, toll-setting and traffic management algorithms, and Software and associated documentation used in connection with the Project (including but not limited to Software and associated documentation used for management of traffic on the Project) and the ETTM Data.

Interest Payment Date means the date on which interest is due and payable on any Series of Bonds.

Interest Rate means any interest rate borne or to be borne by a Series of Bonds.

Investment Security or **Investment Securities** means any one or more of the following securities:

(a) Direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America;

(b) Obligations, debentures, notes or other evidences of indebtedness issued or guaranteed, directly or indirectly, by any of the following: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Federal National Mortgage Association; Federal Home Loan Mortgage Corporation; Farmers' Home Administration; Tennessee Valley Issuer; Federal Farm Credit System; Federal Financing Bank; the Government National Mortgage Association; the Student Loan Marketing Association; or any successor;

(c) Obligations issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes, preliminary loan notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(d) Direct and general obligations of or obligations guaranteed by the State, the payment of the principal of and interest on which is a general

obligation of the State, provided that at the time of their purchase, such obligations are rated in one of the two highest rating categories by each Rating Agency;

(e) Demand deposits or interest-bearing time deposits, certificates of deposit or other similar banking arrangements, with the Trustee or a member of the Federal Deposit Insurance Corporation, or any such institution having (or whose parent holding company has) undivided capital and surplus of at least $50,000,000, provided that such time deposits or certificates of deposit, to the extent not insured to the full amount thereof, must be fully secured by obligations of the type specified in (a), (b), (c) or (d) above or (g) below which have a Fair Market Value, including accrued interest, at least equal at all times to the amount of such deposits;

(f) Repurchase Agreements with banks which are members of the Federal Deposit Insurance Corporation or with members of the Association of Primary Dealers in United States Government Securities (or any successor thereof), the underlying securities of which are of the type described in (a) above, which are held by a third party bank for safekeeping on behalf of the Issuer, and which are fully secured at all times by obligations of the same type which have a Fair Market Value, including accrued interest, at least equal to the amount of such Repurchase Agreement, provided that at the time such Repurchase Agreement is acquired, the issuer of the repurchase agreement is rated at least "A" by Moody's, if any Bonds are then rated by Moody's, and at least "A-" by S&P, if any Bonds are then rated by S&P;

(g) Direct and general obligations of any state, political subdivision or governmental authority within the territorial United States of America, provided that at the time of their purchase, such obligations are rated in one of the two highest rating categories by each Rating Agency;

(h) Certificates of deposit of any bank, including the Trustee, with undivided capital and surplus of at least $50,000,000, the unsecured debt of which is rated as of the date of acquisition in one of the two highest rating categories by each Rating Agency, with such certificates of deposit to be secured by any other Investment Securities or any security then acceptable to secure deposits of public funds of the State and having a Fair Market Value, including accrued interest, at least equal to the amount of the certificate of deposit;

(i) Investment agreements with any bank or other financial institution, including the Trustee, with undivided capital and surplus of at least $50,000,000, the unsecured debt of which is rated as of the date of acquisition in one of the two highest rating categories by each Rating Agency, with such investment agreement to be secured by any other Investment Securities described herein or by any security then acceptable to secure deposits of public

funds of the State and having a Fair Market Value, including accrued interest, at least equal to the amount of the Investment Agreement;

(j) Unsecured investment agreements with the Trustee or any bank or other financial institution the unsecured debt or counterparty rating of which is rated, as of the date of acquisition in one of the two highest rating categories by each Rating Agency; and

(k) Any other obligation which, at the time acquired, is rated, by each Rating Agency, in one of the two highest rating categories for long-term obligations or in the highest rating category for short-term obligations.

Issuer means the Association.

ITS means any application of computer, electronics and/or telecommunications equipment and software and supporting fixtures and equipment whose function is to provide information, data and/or services to the traveling public or Department or to manage and control traffic, all items listed in the Federal Highway Administration Intelligent Transportation Systems Summary Report dated January 19, 1995, and any future systems or services conceived or developed for the same or similar purposes; however ITS shall not include the ETTM System as used for Project Purposes.

Laws, Regulations and Ordinances means all applicable laws, codes, rules, ordinances, restrictions and regulations of the federal, State, regional or any local government (including those resulting from the initiative or referendum process) and judicial or administrative orders.

Letter of Instructions means a written directive and authorization executed by an Authorized Association Representative.

Letter of Representations means the Letter of Representations between the Issuer and The Depository Trust Company, New York, New York, regarding the Public Debt issued under the Indenture, and, if necessary, any similar letter regarding any additional Bonds offered and sold to the public.

Lien means any pledge, lien, security interest, mortgage, deed of trust or other charge or encumbrance of any kind, or any other type of preferential arrangement (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature of a security instrument and the filing of or agreement to file any financing statement under the Virginia Uniform Commercial Code).

Liquidated Damages shall have the meaning set forth in Section 25.6 of the Design-Build Contract.

Master Indenture means the "Master Indenture" referred to in the definition of Indenture, without regard to any Supplemental Indenture.

Memorandum and Assignment means the Memorandum of Comprehensive Agreement and Absolute Assignment of Toll Revenues among Department, FD/MK, the Association and the Trustee in the form of Exhibit K to the Comprehensive Agreement, and any and all amendments and supplements thereto.

MKC (Delaware) means Morrison Knudsen Corporation, a Delaware corporation and its successors.

MKC (Ohio) means Morrison Knudsen Corporation, an Ohio corporation and its successors.

Moody's means Moody's Investors Service Inc., its successors and assigns, and, if Moody's Investors Service, Inc., shall for any reason no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer and its stead.

Nationally Recognized Municipal Securities Information Repository or NRMSR means a nationally recognized municipal securities information repository, as recognized from time to time by the Securities and Exchange Commission by no-action letter for the purposes referred to in SEC Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended.

NEPA means the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., as amended and as it may be amended from time to time.

Non-Construction Costs means (1) the costs of Project Right of Way acquisition and relocation, (2) the costs of Utility Relocations, (3) the costs of design and engineering, (4) the costs of promoting, marketing and advertising the Project and its opening to the public incurred prior to the commencement of revenue operations on the Project, and (5) any other costs approved by the Department pursuant to Section 3.3 of the SIB Loan Agreement.

Notice of Proposed Change/Direction means a notice issued by Department concerning a possible Change Order, as specified in Section 19.3.2 of the Design-Build Contract.

Notice of Termination means a notice issued by Department to terminate the Design-Build Contract and the performance of the Work by Contractor pursuant to Article 26 of the Design-Build Contract.

Opening Date means the first date on which the Project (other than overpasses and underpasses) is opened for regular public use.

Operating Expenses means Current Expenses.

Operator shall have the meaning assigned to such term in Section 56-557 of the PPTA and, for purposes of the Comprehensive Agreement, means FD/MK from the Agreement Date to and including the Transition Date and means the Association thereafter until the end of the Term of the Comprehensive Agreement.

Optimum Toll Revenues means the highest aggregate Toll Revenues that the Toll Consultant reasonably estimates may be collected in any Fiscal Year, based on a traffic study conducted as and when required under Section 4.2 of the Comprehensive Agreement or Section 717 of the Indenture.

Outstanding means, with respect to any Bonds as of any date, Bonds theretofore or thereupon being authenticated and delivered under the Indenture except:

(a) Bonds canceled or delivered for cancellation at or prior to such date;

(b) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to the Indenture; and

(c) Bonds deemed to have been paid, redeemed, purchased or defeased as provided in the Indenture, in any Supplemental Indenture, as applicable, or as provided by law.

Oversight Budget shall have the meaning set forth in Section 5.2.3 of the Design-Build Contract.

Oversight Services means those services and functions Department has the right or obligation to perform or to cause to be performed under the Laws, Regulations and Ordinances or any Project Agreement in order to monitor, review, manage or administer the Project Agreements or the work or performance of the Operator under the Project Agreements; provided that Oversight Services do not include performance by Department of responsibilities delegated to it under Section 8.3 of the Comprehensive Agreement.

Paying Agent means any bank or trust company or national or state banking association (which may include the Trustee) designated to make payment of the principal and Redemption Price of and interest on the Bonds of any Series, and its successor or successors, hereafter appointed by Supplemental Indenture and meeting the requirements of Article X of the Indenture.

Payment Bond means the payment bond described in Section 22.6 of the Design-Build Contract.

Performance Bond means each performance bond to be provided by a Subcontractor as described in Section 22.6 of the Design-Build Contract.

Person means any individual, public or private corporation, county, district, authority, municipality, political subdivision or other entity of the State or the United States of America, and any corporation, limited liability company, partnership, association, firm, trust, estate, or any other entity whatsoever.

Plans and Specifications means the 100% completed maps, plans, drawings and specifications for different components of the Work as approved by Department's Chief Engineer and bearing the seal of a Virginia licensed engineer.

Plume means the existing underground plume of Hazardous Substances located generally on the west side of the James River in the vicinity of the Route 895 and I-95 interchange, as depicted and described (a) in the certain report entitled "Environmental Site Assessment, Virginia Department of Transportation, I-95/I-895 James River to Route 1," prepared by Nick Froelich, of the Department, and Marshall Miller & Associates, bearing MM&A Project No. VRR190 and (b) on the certain map of such vicinity comparing contamination in 1993 and 1997, prepared by Site Blauveldt.

PPTA means the Public-Private Transportation Act of 1995, which is codified as Title 56, Chapter 22, Section 56-556 et seq., Code of Virginia, as amended from time to time.

Pre-Existing Hazardous Substances means any Hazardous Substance that was present within the Project Right of Way limits prior to acquisition of the property for the Project, and which was not placed or deposited there by either Contractor or Department.

Pre-Opening Expense Draw Request means a draw request from the Issuer on the Draw Request and Certificate form attached as Exhibit 2 to the Master Indenture.

Preliminary Engineering means all the attachments included in Appendices A and B to the Scope of Work.

Principal Installment means, to the extent applicable to a particular Series, as of any particular date of calculation, an amount of money equal to the aggregate of (i) the principal amount or Accreted Value of Outstanding Bonds of such Series which mature on a single future date, reduced by the aggregate principal amount or Accreted Value of such Outstanding Bonds of such Series which would at or before said future date be retired as a result of Sinking Fund Installments applied in accordance with the Indenture plus (ii) the amount of any Sinking Fund Installment payable on said future date for the retirement of any Outstanding Bonds of such Series.

Project means (a) all improvements constituting the Route 895 Connector as generally described in the Scope of Work, (b) the ETTM Facilities and

System, (c) all other improvements and other Work Product to be provided by Contractor as a condition to Final Acceptance in accordance with the Contract Documents, including all replacement wetlands and other off-site improvements required by applicable Law, Regulations and Ordinances and Regulatory Approvals, and (d) any Project Enhancements; provided, however, that the term "Project" as used in the Design-Build Contract excludes any Project Enhancements.

Project Agreement means any of the Comprehensive Agreement, the Memorandum and Assignment, the Contract Documents, the Project Financing Agreement, the Completion Guaranty, the Indenture, the SIB Loan Agreement, the SIB Loan Note, the Contractor Loan Agreement, the Guaranty of Contractor Loan Agreement, the Continuing Disclosure Agreement and the Bonds issued pursuant to the First Supplemental Indenture; and the term "Project Agreements" means all such agreements and documents in the aggregate.

Project Enhancements means any extensions of, additions to, or major modifications, replacements or reconstruction of the Project undertaken by Department or the Association with Department direction and approval after the date of Substantial Completion, including but not limited to new ramps and connectors, roadway and ramp widenings, lane additions (including high occupancy vehicle lanes), rail and transit improvements, and other additional access facilities and capacity improvements to the Project.

Project Financing Agreement means the Project Financing, Assignment and Assumption Agreement among Department, FD/MK and the Association in the form of Exhibit E to the Comprehensive Agreement, and any and all amendments and supplements thereto.

Project Manager shall have the meaning set forth in Section 2.2.3 of the Design-Build Contract.

Project Purposes means and is limited to the developing, permitting, design, financing, acquisition, construction, installation, equipping, maintenance, repair, preservation, modification, operation, management and administration of the Project. Project Purposes exclude, however, any activities associated with Reserved Rights.

Project Right of Way means all real property (which term is inclusive of all estates and interests in real property) which is necessary for ownership and operation of the Project by Department. The term specifically includes (a) all property within the access control line for the Project and (b) the property on which the ETTM Facilities are located. The term specifically excludes any temporary easements or other real property interests which Contractor deems necessary or advisable in connection with construction of the Project and/or Utility Relocations.

Proprietary Software means all Software and associated documentation developed outside the scope of the Comprehensive Agreement and the Design-Build Contract but used for Project Purposes.

Public Debt means the Senior Bonds, the First Tier Subordinate Bonds and any other Bonds issued in a public offering under the Indenture. Public Debt shall not include the SIB Bond, the Contractor Bond or any other Bonds issued to Department or Contractor.

Punch List means the list of Work which remains to be completed after achievement of Substantial Completion, and shall be limited to minor incidental items of Work necessary to correct imperfections which have no adverse effect on the safety or operability of the Project.

Qualified Management Contract means a contract that, pursuant to the applicable United States Treasury regulations, will not result in use of the Project by the manager under such contract being "private business use" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended.

Qualifying Transportation Facility shall have the meaning assigned to such term in Section 56-557 of the PPTA.

Quality Assurance (QA) means all those planned and systematic actions necessary to provide confidence that all Work fully complies with the Contract and that all materials incorporated in the Work, all equipment and all elements of the Work will perform satisfactorily for the purpose intended. Actions include design checks and reviews; document control; Shop Drawing review and approval; materials sampling and testing at the production site and the Project site; inspection of manufacturing/processing facilities and equipment; inspection of on-site equipment, calibration of test equipment, documentation of QA activities, etc.

Quality Assurance Manager means the independent consultant responsible for inspecting and testing in accordance with the Quality Assurance and Control Inspection Program as described in Appendix C attached to the Scope of Work.

Quality Assurance and Control Inspection Program means the program described in Appendix C attached to the Scope of Work.

Quality Control (QC) means the total of all activities performed by Contractor, designer, producer, or manufacturer to ensure that a product meets Contract requirements. For highway design, construction and maintenance this includes design procedures and checking, materials handling and construction procedures, calibration and maintenance of equipment, Shop Drawing review, document control, production process control, and any sampling, testing, and

inspection done for these purposes. QC also includes documentation of QC efforts.

Rating Agency means any one or more, as the context may require, of the following that as of the date of applying this definition maintain a rating on the applicable Bonds: Fitch, Moody's and S&P.

Rebate Analyst means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Issuer to make the computations required under the Indenture or any Supplemental Indenture.

Rebate Fund means the Route 895 Connector Toll Road Revenue Bond Rebate Fund established by Section 502 of the Indenture, and includes any separate accounts or subaccounts established by the terms of any Supplemental Indenture or any agreement pursuant thereto.

Record Date as used with respect to any Interest Payment Date for any Series of Bonds offered and sold to the public means the date designated in any Supplemental Indenture as the record date for the payment of interest on such Series of Bonds, or if no Record Date is so designated (i) with respect to interest not in default, the fifteenth day next preceding such Interest Payment Date in respect of such Series and (ii) with respect to defaulted interest, the fifth day preceding payment thereof.

Redemption Date means the date upon which any Bonds are to be redeemed prior to their respective fixed maturities pursuant to the mandatory or optional redemption provisions of any Supplemental Indenture.

Redemption Price means, with respect to any Bond, the amount, including any applicable premium, payable upon the mandatory or optional redemption thereof, as provided in any Supplemental Indenture.

Reference Documents means those documents listed in the Scope of Work.

Refunding Bonds means all Bonds, whether issued in one or more Series, issued for the purpose of refunding a like or different principal amount of Bonds, and authenticated and delivered pursuant to the Indenture.

Register means the register maintained by the Registrar for each Series of Bonds which shows ownership of Bonds in accordance with Section 308 of the Indenture.

Registrar means any bank or trust company or national or state banking association (which may include the Trustee), designated to keep a Register of the Owners of the Bonds of any Series and its successor or successors,

hereafter appointed by Supplemental Indenture and meeting the requirements of Article X of the Indenture.

Regulatory Approvals means all local, regional, state and federal agreements, studies, findings, permits, approvals, authorizations, certifications, consents, decisions, exemptions, filings, leases, licenses, registrations, rulings and other governmental authorizations required to be obtained or completed under applicable Laws, Regulations and Ordinances prior to undertaking any particular activity contemplated by the Comprehensive Agreement or Design-Build Contract. The term "Regulatory Approvals" includes the EIS.

Reimbursable Site Work means the portion of the Differing Site Conditions Work, if any, subject to reimbursement by Contractor pursuant to Section 19.4.1.2(e)(ii) of the Design-Build Contract.

Related Financial Transaction means, with respect to any Series of Bonds, a Financial Transaction pursuant to which payments by the Issuer are to be paid from or secured by revenues or funds pledged to the payment of or as security for such Series of Bonds and payments to the Issuer are pledged to the payment of or as security for such Series of Bonds.

Related Party means:

(a) any person or entity that is a stockholder, member, manager or general or limited partner of FD/MK or that owns, directly or through one or more intermediate entities a 10% or greater equity interest in FD/MK (each a "substantial owner");

(b) any entity in which a substantial owner owns directly or through one or more intermediate entities a 10% or greater equity interest;

(c) any entity effectively controlled by a substantial owner; or

(d) senior management of FD/MK, or members of the immediate family of any individual substantial owner or of such senior management.

Renewal and Replacement Fund means the Route 895 Connector Toll Road Revenue Bond Renewal and Replacement Fund established by Section 502 of the Indenture.

Renewal and Replacement Fund Requirement means the amount to be deposited on an annual basis into the Renewal and Replacement Fund as specified by the Department for inclusion in the Annual Budget.

Repurchase Agreement means any agreement entered into with a Person pursuant to which the Trustee, on behalf of the Issuer, purchases and

such Person agrees to repurchase specified Investment Securities, provided that the repurchase price shall not be less than the purchase price.

Reserved Rights means all of the following:

(a) subject to Section 12.1 and the last sentence of Section 19.2 of the Comprehensive Agreement, Department's right to use, possess and enjoy any real and personal property over, on, under or adjacent to the Project Right of Way for other transportation and transit facilities, including but not limited to tunnels, flyovers, interchanges and fixed guideways; and

(b) all right to use, and use of:

(i) all electrical, fiber optic and wireless conduit, cable, capacity, towers, antennas and associated equipment or other telecommunications equipment, hardware and capacity existing over, on, under or adjacent to any Project Right of Way installed by anyone, whether before or after the Agreement Date, and all Software which executes such equipment and hardware and related documentation, to the extent not necessary and required for traffic management for the Project or for other Project Purposes;

(ii) ETTM Data or other data generated from operation of the Project or toll collection technology except as required solely for Project Purposes;

(iii) any area or space over, on, under or adjacent to the Project Right of Way for development and operation of any office, commercial, industrial or mixed use real estate project, such as but not limited to revenue-generating service or rest areas;

(iv) any equipment, facilities or capabilities for ITS studies or applications installed by Department and the right to install any such equipment, facilities or capabilities other than the ETTM System;

(v) toll collection technology for other than Project Purposes; and

(vi) any area or space over, on, under or adjacent to the Project Right of Way for any other commercial or non-commercial development or use.

Responsible Public Entity shall have the meaning assigned to such term in Section 56-557 of the PPTA and, for purposes of the Comprehensive Agreement, means Department.

Retainage shall have the meaning set forth in Section 14.2.6.1 of the Design-Build Contract.

Retainage Account means the Retainage Account of the Route 895 Toll Road Revenue Bond Construction Fund established by Section 502 of the Indenture.

Revenue Fund means the Route 895 Connector Toll Road Revenue Bond Revenue Fund established by Section 502 of the Indenture.

Revenues means all amounts received by or on behalf of the Association from Toll Revenues; proceeds from insurance (other than proceeds of fire and other casualty insurance), condemnation awards with respect to the Project; all amounts payable to the Association (but not Department) as liquidated damages under contracts, in each case, to the extent the same relate to the Project; all amounts derived from the sale or other disposition of the Association's interest in the Project; amounts derived as grants, loans or otherwise from the United States of America, the State or any other Person which may be available for, and which the Association determines to, deposit in the Revenue Fund; all investment earnings that are transferred to or deposited into the Revenue Fund; all moneys released from another Fund or Account and transferred to the Revenue Fund pursuant to subsection 2 of Section 505 of the Indenture; and all other amounts derived from or in respect of the operation of the Project which constitute revenues in accordance with Generally Accepted Accounting Principles, including without limitation tolls and any interest income earned on any Funds and Accounts which is required to be transferred to or maintained in any Fund, Account or Subaccount hereunder; provided, however, Revenues exclude (a) the costs of goods and/or services in kind provided to Association with respect to which Association has no obligation of repayment, (b) moneys and interest thereon held in the 1998 Series D Subaccount of the Construction Fund, (c) moneys and interest thereon held in the Department Capital Cost Savings Account of the Construction Fund, (d) amounts Department elects to fund under Section 6.5(c) or (e) of the Comprehensive Agreement, (e) moneys and interest thereon held in any other Fund or Subaccount other than the Revenue Fund and (f) revenues and proceeds arising out of or relating to Reserved Rights or the disposition of surplus or residual property.

RFC Notice shall have the meaning set forth in Section 19.4.2.1 of the Design-Build Contract.

Right of Way Acquisition Plan means the modifications to Department's Right of Way Manual of Instructions prepared by Contractor and approved by Department pursuant to Section 6.1.1 of the Design-Build Contract.

Right of Way Plans means the Project Right of Way plans included in the Preliminary Engineering.

ROW/Utility Allowance means the portion of the Contract Price allocated to Project Right of Way Work and Utility Relocation Work, as further described in Section 14.1 of the Design-Build Contract.

Rule 15c2-12 means Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (17 C.F.R. §240.15c2-12).

S&P means Standard & Poor's Ratings Group, a Division of McGraw-Hill, Inc., its successors and assigns, and, if Standard & Poor's Ratings Group, a Division of McGraw-Hill, Inc., shall for any reason no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer in its stead.

Safety Directed Change means a Directed Change directing Contractor to perform changes in the Work and setting forth a written finding of the Department's Chief Engineer to the effect that it is issued to conform to changes in safety standards or methodologies agreed to or adopted by Department for similar portions of State Highways.

Safety Program means Contractor's approved safety program meeting the requirements set forth in Section 5.1.2 of the Design-Build Contract.

Scheduled Completion Date shall have the meaning set forth in Section 14.5.1 of the Design-Build Contract.

Scope of Work means the document attached to the Design-Build Contract as Appendix 6.

Second Tier Subordinate Bonds means any Bonds designated as "Second Tier Subordinate Bonds" by a Supplemental Indenture.

Second Tier Subordinate Bonds Debt Service Account means the Second Tier Subordinate Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

Securities Depository means The Depository Trust Company, a corporation organized and existing under the laws of the State of New York, and any successor Securities Depository appointed pursuant a Supplemental Indenture.

Senior Bonds mean any Bonds designated as "Senior Bonds" by a Supplemental Indenture.

Senior Bonds Capitalized Interest Subaccount has the meaning set forth in any Supplemental Indenture.

Senior Bonds Capitalized Interest Subaccount Requirement means the amount required to be deposited in the Senior Bonds Capitalized Interest Subaccount by any Supplemental Indenture, calculated in the manner and times as set forth therein.

Senior Bonds Debt Service Account means the Senior Bonds Debt Service Account of the Debt Service Fund established by Section 502 of the Indenture.

Senior Bonds Debt Service Reserve Account means the Senior Bonds Debt Service Reserve Account of the Debt Service Reserve Fund established by Section 502 of the Indenture.

Senior Bonds Debt Service Reserve Account Requirement means the lesser of (I) 10 percent of the issue price within the meaning of the Code of the applicable Senior Bonds, (ii) the maximum annual principal and interest requirements for the applicable Senior Bonds, or (iii) 125 percent of the average annual principal and interest requirements for the applicable Senior Bonds.

Series means Bonds identified as a separate series which are authenticated and delivered on original issuance and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to any Supplemental Indenture. All Bonds of a particular Series shall be of the same Tier.

Series 1998D Bonds Proceeds Account means the Series 1998D Bonds Proceeds Account of the Construction Fund established by Section 502 of the Indenture.

Shop Drawings means drawings showing the sizes, shapes and locations of component elements comprising the Project.

SIB Bond means the Series 1998D Bond issued to the CTB under the Indenture and in accordance with the SIB Loan Agreement evidencing the SIB Loan, and any and all supplements and amendments thereto.

SIB Loan means the loan authorized to be made by the CTB to the Association under the SIB Loan Agreement.

SIB Loan Agreement means the SIB Loan Agreement among the CTB, the Association and the Trustee in the form of Exhibit H to the Comprehensive Agreement, and any and all amendments and supplements thereto.

SIB Loan Note means the promissory note to be delivered by the Association to the CTB in the form attached as Exhibit B to the SIB Loan Agreement.

Sinking Fund Installment means, as of any particular date of calculation and with respect to any Series of Bonds, the amount of money to be applied as the Redemption Price of Bonds subject to mandatory sinking fund redemption in any Fiscal Year prior to maturity pursuant to the Supplemental Indenture for such Series, as such Sinking Fund Installment shall have been previously reduced by

the principal amount of any Bonds of such Series of the maturity in respect of which such Sinking Fund Installment is payable which are purchased or redeemed by the Trustee in accordance with the provisions of Section 507 of the Indenture or of any Supplemental Indenture, other than by the prior payment of a Sinking Fund Installment.

Site means those areas designated in writing by Department for performance of the Work and such additional areas as may, from time to time, be designated in writing by Department for Contractor's use in performance of the Work. The Site initially includes the area within the Project Right of Way limits. For purposes of insurance, indemnification, safety and security requirements and payment for use of equipment the term "Site" also includes any areas on which Utility Relocation Work is performed and any property being temporarily used by Contractor for storage of equipment and/or construction Work.

Software means (a) computer instructions, including programs, routines and databases and applications supplied, procured or developed by Contractor as part of the Work or by the Association or Department in connection with the operation of the Project or other Project Purposes or in connection with Reserved Rights, including but not limited to that which monitors, controls or executes on ETTM Equipment or ITS equipment or hardware, and (b) all modifications, updates and revisions made to the matter described in subsection (a) above, including those made to correct errors or to support new models of computer equipment and/or new releases of operating systems.

Source Code means Software program higher order language listings, internal documentation embedded in program listings, associated data files and data structures, in electronic and/or printed form, necessary for maintenance of and modifications to the Software.

Source Code Documentation means the program level Software design documentation, associated data files, data structures and algorithm descriptions necessary to make program code level modifications to delivered Software.

Standard Specifications means the Virginia Department of Transportation Metric Road and Bridge Specifications dated January 1997, provided that the document attached to the Design-Build Contract as Appendix 9 shall be substituted for Division I thereof. Divisions II through VII will not apply to the Work except in connection with any design furnished by Contractor which references the Standard Specifications.

State means the Commonwealth of Virginia.

State Highway means any highway designated a State Highway pursuant to Title 33.1, Chapter 1, Sections 25, 48 and 67, Code of Virginia.

State Indemnitee means and includes Department, the Commissioner, the CTB, the State and all elected representatives, appointed officials, commissioners, officers, members, employees, authorized agents and authorized representatives of any of them.

Subaccount means any one or more of the subaccounts from time to time created in any of the Accounts established by Section 502 of the Indenture or by any Supplemental Indenture.

Subcontract means any agreement by Contractor with any other Person to perform any part of the Work or provide any materials, equipment or supplies for any part of the Work, or any such agreement at a lower tier, between a Subcontractor and its lower tier Subcontractor.

Subcontractor means any Person with whom Contractor has entered into any Subcontract to perform any part of the Work or provide any materials, equipment or supplies for the Project on behalf of Contractor (and any other Person with whom any Subcontractor has further subcontracted any part of the Work).

Subordinate means, when used with respect to a particular Tier of Senior Bonds, First Tier Subordinate Bonds or Second Tier Subordinate Bonds or bonds or other obligations subordinate thereto, all Bonds with respect to which amounts in the Revenue Fund are to be applied to the Debt Service Account for such Bonds pursuant to subsection 1 of Section 505 of the Indenture at a priority following the priority at which such amounts are to be applied to the Debt Service Account for the particular Tier of Bonds.

Substantial Completion shall have the meaning set forth in Section 17.3 of the Design-Build Contract.

Superior Obligation means a Tier of Bonds that is paid out of a Debt Service Account at a priority above the priority of another Debt Service Account for another Tier of Bonds pursuant to Section 505 of the Indenture.

Supplemental Indenture means any indenture supplemental to or amendatory of the Master Indenture, entered into by the Issuer and the Trustee in accordance with Article XI of the Indenture.

Supplier means any Person not performing work at the Site that supplies machinery, equipment, materials or systems 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 the State Corporation Commission to do

business in the State, listed in the U.S. Treasury Department Circular 570 and with an A.M. Best and Company rating level of A- or better, Class VII or better, or as otherwise approved by Department, at its sole discretion, which has issued the Payment Bond or Performance Bond.

Surplus Fund means the Route 895 Connector Toll Road Revenue Bond Surplus Fund established by Section 502 of the Indenture.

Tax Compliance Certificate means the tax compliance certificate delivered to the Trustee in connection with any Series of Tax-Exempt Bonds.

Tax-Exempt Bonds means Bonds the interest on which is intended to be excludable from the gross income of the Owners thereof for federal income tax purposes.

Term, for purposes of the Comprehensive Agreement, means the time period commencing on the Agreement Date and expiring on the latest date the Bonds, including the SIB Bond and Contractor Bond are paid (or fully defeased) and the lien of the Indenture has been discharged in accordance with its terms.

Tier means all Bonds of one or more Series the principal and Redemption Price of and interest on which are payable from the same Debt Service Account. Bonds issued pursuant to subsection 2 of Section 720 of the Indenture are deemed to constitute a separate Tier of Bonds.

Toll Consultant means Wilbur Smith & Associates and any other engineer or engineering firm selected by the Association (with the consent and approval of Department and the Trustee) to perform and carry out the duties imposed on the Toll Consultant under the Comprehensive Agreement and the Indenture.

Toll Revenues means all amounts received by or on behalf of the Issuer from fees, tolls, rates and charges for the privilege of traveling on the Project imposed by the Issuer pursuant to the Comprehensive Agreement. Toll Revenues excludes revenues and proceeds arising out of or relating to Reserved Rights.

Toll Servicing Rights shall have the meaning set forth in Section 3.4(b) of the Comprehensive Agreement.

Total Remaining Costs of the Project has the meaning set forth in item F of the form of Draw Request attached as Appendix 3 to the Design-Build Contract and Exhibit 1 to the Master Indenture.

Traffic and Revenue Study means the certain "Route 895 Connector Comprehensive Traffic and Revenue Study," dated May 14, 1998, prepared by Wilbur Smith & Associates, all data, charts, tables analysis and other documentation assembled or prepared by Wilbur Smith in connection therewith

and all existing and future updates, reissuances, supplements and amendments thereto.

Transition Date means the first to occur of (a) the Opening Date, (b) the Final Acceptance Date or (c) the date, if any, that FD/MK's rights under the Comprehensive Agreement and the Design-Build Contract are terminated pursuant to Article XVI of the Comprehensive Agreement.

Transportation Trust Fund Earnings Rate means for any month the composite yield during the preceding month on average assets in the Commonwealth of Virginia Transportation Trust Fund as reported in the Department of Treasury "General Account Investment Portfolio-Monthly Average Balances and Yields." The composite yield is determined by dividing the annualized earnings for the month, which includes interest accruals, accretions, amortization and realized gains and losses, by the average asset balances for the month.

Trustee means Crestar Bank, a Virginia banking corporation, its legal successor, or any other commercial bank or trust company duly organized and existing under the laws of any state or the United States of America, which is authorized under the laws of the State to exercise corporate trust powers and is subject to examination by federal authority, appointed pursuant to Article X of the Indenture as its successor or its successors.

Trust Estate means:

(a) All right, title and interest of the Issuer now owned or hereafter acquired in all Revenues and to the Funds (except for the Rebate Fund, the Series 1998D Bonds Proceeds Account, the Department Capital Cost Savings Account and the Retainage Account) including amounts deposited therein (together with all investments thereof and investment income earned thereon, including Investment Securities held therein); provided, that the Issuer may establish one or more separate accounts in the Funds and Accounts, which accounts and the amounts deposited therein (together with all investments thereof and investment income earned thereon) may be held in trust exclusively for the payment of one or more designated Series of Bonds or portions thereof or for any other designated purpose, or otherwise, all as provided in the Indenture or in any Supplemental Indenture;

(b) Any and all property of every kind and nature (including, without limitation, cash, obligations or securities) which may from time to time hereafter be assigned, hypothecated, endorsed, pledged, granted, or delivered to or deposited with the Trustee by the Issuer or anyone on its behalf, or which pursuant to any of the provisions of the Indenture may come into the possession or control of the Trustee as security under the Indenture, or of a receiver lawfully appointed under the Indenture, including, but not limited to, any Related Financial Transaction (provided, however, that the Issuer's interest with respect

to a Related Financial Transaction and the Revenues derived therefrom shall be part of the Trust Estate only in respect of the Series of Bonds to which such Related Financial Transaction relates), all of which the Trustee is authorized to receive, hold and apply according to the terms of the Indenture;

(c) All right, title and interest of the Association now owned or hereafter acquired in the Project Financing Agreement (including its rights in the Comprehensive Agreement, the Design-Build Contract and certain rights assigned by the Department under the Completion Guarantee), the Guaranty of Contractor Loan Agreement, the Completion Guarantee, the SIB Loan Agreement and the other Project Agreements to which the Association is a party or of which it is a beneficiary; and

(d) Proceeds of the foregoing.

Utility or **utility** means a public, private, cooperative, municipal and/or government line, facility or system used for the carriage, transmission and/or distribution of cable television, electric power, telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, sewage, storm water not connected with the highway drainage and similar substances that directly or indirectly serve the public. The term "Utility" specifically excludes (a) storm water lines connected with the highway drainage, and (b) traffic signals, street lights, and electrical systems for roadways.

Utility Owner or **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 Relocation means the removal, relocation and/or protection in place (including provision of temporary services as necessary) of any and all utility facilities that have to be removed, relocated and/or protected in place in order to permit construction of the Project.

Warranties means the warranties made by Contractor in Article 11 of the Design-Build Contract.

Work means all of the administrative, design, engineering, real property acquisition support services, Utility Relocation, procurement, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, maintenance, documentation and other duties and services to be furnished and provided by Contractor as required by the Contract Documents, including all efforts necessary or appropriate to achieve Final Acceptance except for those efforts which such Contract Documents specify will be performed by Persons other than a Contractor Party.

Working Drawings means drawings needed to show things associated with the construction of something to be constructed, but which will not be part of the permanent construction, e.g. formwork.

Work Product means all the data, information, documentation and other work product produced, prepared, obtained or deliverable by or on behalf of any Contractor Party or the Association and in any way related to the Project or Project Right of Way, including but not limited to Shop Drawings, Working Drawings, Draft Plans and Specifications, Plans and Specifications, record and as-built plans and specifications, engineering documents, geotechnical soils and soil boring data, analyses, reports and records, the Right of Way Plan, property acquisition files, agreements and documents (including records of payment and related correspondence, title policies, parcel diaries and all documents described in Section 6.4.2 of the Design-Build Contract), engineers' and inspectors' diaries and reports, utility relocation plans and agreements, right of way record maps and surveys, Traffic and Revenue Studies, and other feasibility data, analyses, studies and reports, correspondence and memoranda relevant to design or construction decisions, contracting plans, air quality monitoring data, environmental reviews, studies and reports, mitigation studies and reports, data, assessments, studies and reports regarding Hazardous Substance investigations, testings, borings, monitoring and analyses, manifests regarding handling, storage or transportation of Hazardous Substances, correspondence and agreements relating to Regulatory Approvals, Change Orders, final quantities, pile driving records, records of accidents and traffic management, field test records and reports, concrete pour records, surfacing depth check records, grade and alignment books, cross-section notes, drainage notes, photographs, false work and form plans, records of construction materials, Toll Equipment and Toll Facilities records and reports, and any other documents which can be reasonably described as technical or engineering documents. Work Product expressly excludes, however, documents and information which Contractor or Association (as the case may be) and Department mutually agree in writing, or which a court determines, to be exempted or protected from public disclosure under Section 18.2 of the Comprehensive Agreement and which is not conceived or first reduced to practice for Project Purposes, such as but not limited to the EPD and other proprietary financial and pricing information of Contractor.

EXHIBIT 1

FORM OF DRAW REQUEST

DRAW REQUEST AND CERTIFICATE

DRAW REQUEST NO.:_____
CERTIFICATE NO.:_____
DATE:_____

Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219
Attention: Project Manager, Route 895 Connector

Crestar Bank, Trustee
919 East Main Street
Richmond, Virginia 23219
Attention: Ms. Kelly A. Pickerel

Pocahontas Parkway Association
Two James Center
1021 East Cary Street
Richmond, Virginia 23219
Attention: President

Ladies and Gentlemen:

FD/MK Limited Liability Company ("FD/MK"), submits this Draw Request and Certificate (the "Request") pursuant to Section 14.2.3 of the Design-Build Contract dated as of June 3, 1998 (the "Design-Build Contract") by and between FD/MK and the Virginia Department of Transportation ("Department") and subsection 5 of Section 503 of the Master Indenture of Trust between Pocahontas Parkway Association and Crestar Bank as Trustee dated _____, 1998 (the "Master Indenture"). All capitalized terms used in this Request and not defined herein have the respective meanings given to such terms in Appendix A to the Design-Build Contract or otherwise given in the Design-Build Contract. Section numbers shown in this Request are the Section numbers of the Design-Build Contract unless expressly stated otherwise.

The undersigned officer of FD/MK has discussed all matters pertinent to this Request with appropriate officers, agents and employees of FD/MK and its subcontractors, and other parties to ensure the accuracy of this Request, and has made such other examinations and investigations as are necessary for purposes of ascertaining the truth of the statements contained in this Request.

On the basis of the foregoing, the undersigned hereby (1) requests the Trustee to issue and validate checks or other orders drawn on the Construction Fund in the amounts shown on Attachment 1 hereto to the Persons indicated therein and to mail, wire transfer or otherwise

deliver each such order to such Persons in accordance with the instructions set forth in Attachment 1, and (2) certifies, warrants and represents on behalf of FD/MK as follows:

A. Amount of Request.

Line	Item	Reference	Amount
1	Amount for Work performed since last Request:		
2	From Fixed Price Amount (net of previously invoiced, lost material)	14.1.1; 14.2.8.7.4	$
3	From ROW/Utility Allowance	14.1.2	
4	From Bridge Foundation Account		
5	For Bridge Foundation Work	14.1.3.2	
6	For Reimbursable Site Work (net of portion payable from Bridge Foundation Advance)	14.6; 14.6.3	
7	From Oversight Budget	5.2.3	
8	From Contingency		
9A	For Project Right of Way Work	14.1.2.5	
9B	For Utility Relocations Work	14.1.2.5	
10	For ETTM System Work	2.3.1	
11	For Department Oversight Services	5.2.3	
12	For Safety Directed Changes (estimated)	19.3.3.1	
13	For Change Orders/Directive Letters regarding Reimbursable Site Work	19.4.1.2(e)ii	
14	For Change Orders due to non-particular strikes or Utility Owner delay	19.4.1.2(d)	
15	For other Change Orders	19.4.1.2(c)	
16	From Department for Discretionary Directed Changes (estimated)	19.3.3.2	
17	Total amount of Work performed since last Request:		$
18	Adjustments and deductions:		
19	Discretionary Directed Changes payable by Dept	19.3.3.2	( )
20	Change Order Work due to non-particular strikes or Utility Owner delay prior to Final Acceptance	19.4.1.2(d)	( )
21	30% of Reimbursable Site Work performed prior to completion of Bridge Foundation Work	14.6.1	( )
22	Retainage	14.2.6.1	( )
23	Liquidated Damages claimed by Department	14.4; 25.6.1.1	( )
24	Liquidated Damages claimed by Association	14.4; 25.6.1.2	( )
25	Department costs	14.2.7(b); 11.1.3; 25.2.4	( )
26	Other Department deductions under Contract Documents	14.2.7(c)	( )
27	Net amount of Request to Trustee		$

B. Draw from Series 1998D Bond Proceeds Account. The portion of the net amount of this Request representing Non-Construction Costs of the Project eligible and to be drawn for payment from the Series 1998D Bond Proceeds Account in accordance with subsection 3 of Section 502 of the Master Indenture is $_____.

C. Payment and Payees.

1. The Costs of the Project to be paid pursuant to this Request, broken down by payee and the amount for each such payee, together with instructions regarding the method of payment and all appropriate information relating thereto, are as set forth in Attachment 1 to this Request . True and complete copies of the requisition and/or invoice of each such payee are attached hereto as part of Attachment 2 to this Request.

2. All Costs of the Project itemized in Attachments 1 and 2 are now due and payable or are due and payable within 30 days of the date of this Request; and no prior Request or draw has been made or applied to pay such Costs of the Project.

3. The Work for which payment is requested under this Request has been performed and delivered; and the payments to FD/MK and its Subcontractors requested in this Request include only those costs and charges for which FD/MK is entitled to payment at this time under the terms and conditions of the Design-Build Contract.

4. The aggregate amount of all previous draws, if any, paid to FD/MK or its Subcontractors have been applied only to the payment of Costs of the Project heretofore incurred as specified in the Design-Build Contract.

5. If any amount is shown for item A, line 23, 25 or 26 above, Trustee is directed to pay the amount shown directly to the Department. If any amount is shown for item A. line 24 above, Trustee is directed to deposit the amount shown into the Revenue Fund.

D. Certain Calculations.

1. Reimbursable Site Work. The amount requested from the Contingency for Reimbursable Site Work has been calculated in accordance with Sections 14.6.1 and 14.6.2. If this Request shows any amount payable from the Bridge Foundation Account for Reimbursable Site Work, FD/MK certifies and represents that the Bridge Foundation Work is complete.

2. Retainage. The amount of Retainage set forth in item A, line 22 above has been calculated in accordance with Section 14.2.6.1.

3. Liquidated Damages. The amount of Liquidated Damages set forth in item A, lines 23 and 24 above has been calculated in accordance with Sections 25.6.1.1 and 25.6.1.2.

4. ETTM System. The cumulative cost (including any amount requested under this Request) of the ETTM System Work referenced in Section 2.3.1 is $_____.

E. Percentage Completion.

1. The cumulative amount of all prior Requests and this Request drawing against the Fixed Price Amount portion of the Contract Price is $_____, representing _____ percent (____%) of the total Fixed Price Amount portion of the Contract Price.

2. The foregoing percentage of the Fixed Price Amount portion of the Contract Price requisitioned in all prior Requests and this Request does not exceed the percentage of the Work completed.

F. Financing Balance.

1. To the best knowledge of FD/MK, as of the end of the month for which this Request is submitted (check appropriate box):

☐ the Available Construction Fund Amount is sufficient to pay the Total Remaining Costs of the Project.

☐ the Total Remaining Costs of the Project exceed the Available Construction Fund Amount by $_____.

2. The foregoing certification is based on (a) our calculation of a current Available Construction Fund Amount equal to $_____, which calculation is made in reliance on (i) information most recently provided to us by the Trustee with respect to certain fund balances and with respect to unfunded portions of binding commitments issued by the Department to purchase Extraordinary Completion Bonds and (ii) information provided to us by others regarding interest rates under the investment contracts by which unexpended funds in the Construction Fund are invested, (b) our good faith estimate of the rate of future draws against the Construction Fund and (c) the following calculation of Total Remaining Costs of the Project. Our calculation of the Available Construction Fund Amount is made as an accommodation and without any fiduciary duty to the Bond Owners, which is hereby disclaimed.

3. To the best knowledge of FD/MK, the Total Remaining Costs of the Project and the sufficiency or insufficiency of funds to pay the same are as follows:

Line	Item	Amount
1	Amount of draw under this Request:	--
2	Net amount of this Request (item A, line 27 above)	$
3	Sum of amounts payable to Department under item A, lines 23, 25 and 26 of this Request	
4	Amount to be deposited in Revenue Fund under item A, line 24 of this Request	
5	Total (sum of lines 2, 3 and 4)	
6	Remaining Costs of the Project (excluding costs of (i) approved, anticipated and disputed Discretionary Directed Changes, (ii) non-particular strikes and (iii) Utility Owner delay):	--
7	Cost of remaining Work payable from Fixed Price Amount	
8	Unpaid Retainage	
9A	Cost of remaining Project Right of Way Work	
9B	Cost of remaining Utility Relocations Work	

10	Cost of remaining ETTM System Work (payable from the Contingency)	
11	Cost of remaining Bridge Foundation Work	
12	Cost of remaining Department Oversight Services	
13	Cost of remaining Work under pending, approved and disputed Change Orders, Requests for Changes and RFC Notices	
14	Sum of unpaid 30% adjustments for Reimbursable Site Work under this and all prior Requests	
15	Total (sum of lines 7 through 14)	$
16	Total Remaining Costs of the Project (sum of lines 5 and 15)	$
17	Sufficiency (Insufficiency) (Available Construction Fund Amount minus line 16)	$

G. Status of Project Budget

The status of the Project budget under the Design-Build Contract is as follows:

PROJECT BUDGET CATEGORY	INITIAL AMOUNT	AMOUNT OF THIS REQUEST*	TOTAL REQUESTS TO DATE*	AMOUNT REMAINING
Fixed Price Amount	$251,809,520			
Minus transfers to Contingency (14.3.4)	---	( )	( )	
Bridge Foundation Account	36,299,141			
ROW/Utility Allowance	14,000,000			
Oversight Budget	630,000			
Contingency	15,000,000			
Plus transfers from Fixed Price Amount (14.3.4)				
Total	$317,738,661			

*Excluding costs of (i) approved, anticipated and disputed Discretionary Directed Changes, (ii) non-particular strikes and (iii) utility owner delay, unless this is a Request for final payment following Final Acceptance Date.

H. Status of Contract and Contract Performance

1. The expected date of Substantial Completion of the Project is _____, which is (check appropriate boxes):

☐ not later than the Scheduled Completion Date
☐ _____ days after the Scheduled Completion Date; and

☐ not later than the Guaranteed Completion Date
☐ _____ days after the Guaranteed Completion Date.

2. As of the date of this Request, the Department claims it is responsible for payments under Section 19.3.3.3 for not more than ___ days by reason of Discretionary Directed Changes.

3. The Project is being built in accordance with the Scope of Work and the Contract Documents, and in compliance with all Laws, Regulations and Ordinances in effect at the time of performance of the relevant Work.

4. All Regulatory Approvals required for the construction of the Project and opening of the Project for normal use and operations either:

a. have been obtained and remain in full force and effect and are not subject to any appeals or further proceedings or to any unsatisfied conditions that may allow material modification or revocation; or

b. with respect to Regulatory Approvals required for construction or opening for normal use and operations and not yet obtained, such Regulatory Approvals could not be reasonably obtained before the date hereof and FD/MK has no reason to believe that such Regulatory Approvals will not be granted in due course prior to the date that such Regulatory Approvals are required in connection with the construction of the Project or opening of the Project for normal use and operations.

5. FD/MK has obtained all Subcontractor's and manufacturer's representations, warranties, guaranties and obligations required to be obtained by FD/MK under Sections 11.3 and 12.7(b) and (d) with respect to all Work performed and materials and equipment procured to date under the Design-Build Contract.

6. All insurance policies and coverages required under Article 22 of the Design-Build Contract are in full force and effect.

7. No Event of Default under the Design-Build Contract, no FD/MK Default under the Comprehensive Agreement, and no default by FD/MK, FC or MKC under any other Project Agreement exists on the date of this Request or shall occur as a result of the making of the draw to which this Request relates.

8. All representations and warranties of FD/MK, FC and MKC contained in the Design-Build Contract, the Comprehensive Agreement or any of the other Project Agreements in effect on the date hereof are true and correct in all material respects on and as of the date hereof (except for such representations or warranties that by their terms relate solely to a specific prior date) with the same effect as if made on and as of the date hereof.

9. The Design-Build Contract and each of the other Project Agreements executed on or prior to the date hereof and to which FD/MK, FC or MKC is a party is in full force and effect as of the date hereof (or, in the case of the first Request, will be in effect on the date of the draw

thereunder), each without amendment or modification except in accordance with the terms thereof and of the Design-Build Contract.

10. All amounts drawn hereunder are for Costs of the Project and no such amounts are for working capital for the Association.

I. Documentation and Conditions of Request.

1. This Request is accompanied by all documents as are required to be delivered by FD/MK pursuant to Sections 14.2.2 and 14.2.3 (and not previously delivered).

2. The information in all documents and supporting papers prepared by FD/MK, and, to the best knowledge of the FD/MK, its subcontractors, and submitted to the Department in connection with this Request is true, correct and complete.

3. The conditions to draw under this Request set forth in the Master Indenture and SIB Loan Agreement have been satisfied or waived in accordance with the terms of the Master Indenture and SIB Loan Agreement.

J. Authority; Continuation of Certifications.

1. The undersigned has the authority to deliver this Request on behalf of FD/MK.

2. The Department, Trustee and Association may assume that the matters certified herein remain true from and after the date hereof through the date of the draw to which this Request relates unless the undersigned shall have delivered to Department, Trustee and Association a certificate as to any change in any of such matters, which the undersigned hereby agrees to give promptly after obtaining knowledge thereof.

IN WITNESS WHEREOF, the undersigned has caused this Request to be executed by its duly authorized officer on the date first above written.

FD/MK LIMITED LIABILITY COMPANY

By:_____
Name:_____
Title:_____

APPROVED FOR PAYMENT IN ACCORDANCE
WITH PAYMENT INSTRUCTIONS HEREIN:

_____
Name: _____
Title: Authorized Department Representative

ATTACHMENT 1 TO DRAW REQUEST AND CERTIFICATE

Payment Instructions

NAME AND ADDRESS OF PAYEE	PAYMENT INSTRUCTIONS	AMOUNT (less Retainage, Adjustments and Deductions)
FD/MK Limited Liability Company [insert address]	[e.g. Wire to: _____]	$
Virginia Department of Transportation [insert address]	[e.g. Wire to: _____]	
[Others, e.g. escrow holders for ROW acquisitions; court clerks for ROW condemnations; Utility Owners for Utility Relocations]		
Total Invoice		$

ATTACHMENT 2 TO DRAW REQUEST AND CERTIFICATE

Invoices for Costs of the Project for the Route 895 Connector

[Attach, among other things, the following:

- FD/MK invoices in accordance with, and which describe status of completion as it relates to, CPM/Payment Schedule;
- FD/MK and Subcontractor certificates of receipt of all prior progress payments due (except for Retainage and disputed amounts);
- For Requests that include amounts payable on time and materials basis, all supporting documentation required under Section 19.7;
- For Requests that include amounts payable on unit price basis, invoices, receipts or other evidence establishing number of units delivered.]

EXHIBIT 2

FORM OF PRE-OPENING EXPENSE DRAW REQUEST

Exhibit 2

PRE-OPENING EXPENSE DRAW REQUEST AND CERTIFICATE

DRAW REQUEST NO.:_____
CERTIFICATE NO.:_____
DATE:_____

Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219

Crestar Bank, Trustee
919 East Main Street
Richmond, Virginia 23219
Attention: Ms. K. A. Pickerel

Ladies and Gentlemen:

Pocahontas Parkway Association (the "Issuer") submits this Pre-Opening Expense Draw Request and Certificate (the "Request") pursuant to subsection 3 of Section 503 of the Master Indenture of Trust between the Issuer and Crestar Bank, as Trustee, dated as of July 1, 1998 (the "Master Indenture"). All capitalized terms used in this Request and not defined herein have the respective meanings given to such terms in Appendix A to the Master Indenture.

The undersigned officer of the Issuer has discussed all matters pertinent to this Request with appropriate officers, agents and employees of the Issuer and its subcontractors, and other appropriate parties to ensure the accuracy of this Request, and has made such other examinations and investigations as are necessary for purposes of ascertaining the truth of the statements contained in this Request.

On the basis of the foregoing, the undersigned hereby (1) requests the Trustee to issue and validate checks or other orders drawn on the Pre-Opening Subaccount of the Series 1998D Bond Proceeds Account in the amounts shown on Attachment 1 hereto to the Persons indicated therein and to mail, wire transfer or otherwise deliver each such order to such Persons in accordance with the instructions set forth in Attachment 1, and (2) certifies, warrants and represents on behalf of the Issuer, as follows:

A. Amount of Request. The amount of the request is $_____.

B. Payment and Payees.

1. The amounts to be paid pursuant to this Request, broken down by payee and the amount for each such payee, together with instructions regarding the method of payment and all

appropriate information relating thereto, are as set forth in Attachment 1 to this Request. True and complete copies of the requisition and/or invoice of each such payee are attached hereto as part of Attachment 2 to this Request.

2. All such amounts itemized in Attachments 1 and 2 are now due and payable or are due and payable within 30 days of the date of this Request; and no prior Request or draw has been made or applied to pay such Costs of the Project.

3. The work for which payment is requested under this Request has been performed and delivered.

4. The aggregate amount of all previous draws, if any, paid to the Issuer or its Subcontractors have been applied only to the payment of costs included in the Annual Budget.

C. **Authority; Continuation of Certifications.**

1. The undersigned has the authority to deliver this Request on behalf of the Issuer.

2. The Department and Trustee may assume that the matters certified herein remain true from and after the date hereof through the date of the draw to which this Request relates unless the undersigned shall have delivered to the Department and Trustee a certificate as to any change in any of such matters, which the undersigned hereby agrees to give promptly after obtaining knowledge thereof.

IN WITNESS WHEREOF, the undersigned has caused this Request to be executed by its duly authorized officer on the date first above written.

POCAHONTAS PARKWAY ASSOCIATION

By:_____
Name:_____
Title:_____

APPROVED FOR PAYMENT IN
ACCORDANCE WITH PAYMENT
INSTRUCTIONS HEREIN:

VIRGINIA DEPARTMENT OF TRANSPORTATION

Name:_____
Authorized Department Representative

EXHIBIT 3

FORM OF CONTRACTOR BOND DRAW REQUEST

Exhibit 3

CONTRACTOR BOND DRAW REQUEST AND CERTIFICATE

DRAW REQUEST NO.:_____
CERTIFICATE NO.:_____
DATE:_____

FD/MK Limited Liability Company
c/o Fluor Daniel, Inc.
100 Fluor Daniel Drive
Greenville, South Carolina 29607
(Attention: Mr. James R. Carroll, President)

Ladies and Gentlemen:

Crestar Bank, as trustee (the "Trustee"), submits this Contractor Bond Draw Request and Certificate (the "Request") pursuant to Section 3.1 of the Contractor Loan Agreement between FD/MK Limited Liability Company ("FD/MK"), Pocahontas Parkway Association and the Trustee, dated as of July 1, 1998 (the "Contractor Loan Agreement"), and subsection 3 of Section 506 of the Master Indenture of Trust between the Issuer and the Trustee, dated as of July 1, 1998 (the "Master Indenture"). All capitalized terms used in this Request and not defined herein have the respective meanings given to such terms in Appendix A to the Master Indenture.

The undersigned hereby (1) requests FD/MK to pay $_____ or an amount equal to the unfunded Commitment Amount, as defined in the Contractor Loan Agreement, whichever is the lesser, and (2) certifies (i) that moneys on deposit in the Senior Bonds Debt Service Account and the First Tier Subordinate Bonds Debt Service Account, after application of all other Revenues available for such purpose, are insufficient to pay current debt service on the Senior Bonds and the First Tier Subordinate Bonds, and (ii) the amount indicated in Clause (1) is the lesser of the amount required to cover such insufficiency or is the maximum available to be drawn under the Contractor Loan Agreement. Payment shall be made by wire transfer in accordance with the wire instructions attached.

The undersigned has the authority to deliver this Request on behalf of the Trustee.

IN WITNESS WHEREOF, the undersigned has caused this Request to be executed by its duly authorized officer on the date first above written.

CRESTAR BANK, as Trustee

By:_____
Name:_____
Title:_____

EXHIBIT 4

INITIAL TOLL RATE SCHEDULE

Mainline Plaza		
1	Passenger Car and 2 Axle Truck or Bus	$1.50
2	3 Axle Truck or Bus	3.00
3	4 Axle Truck	4.00
4	5 Axle Truck	5.00
5	Vehicle With 6 or More Axles	6.00
Laburnum Ramp Plaza	All Vehicles	$0.50

EXHIBIT G

FIRST SUPPLEMENTAL INDENTURE

FIRST SUPPLEMENTAL INDENTURE OF TRUST

between

POCAHONTAS PARKWAY ASSOCIATION

and

CRESTAR BANK,
as Trustee,

Dated as of July 1, 1998

Relating to

Pocahontas Parkway Association
Route 895 Connector
Senior Current Interest Toll Road Revenue Bonds
Series 1998A

Pocahontas Parkway Association
Route 895 Connector
Senior Capital Appreciation Toll Road Revenue Bonds
Series 1998B

Pocahontas Parkway Association
Route 895 Connector
First Tier Subordinate Capital
Appreciation Toll Road Revenue Bonds
Series 1998C

Pocahontas Parkway Association
Route 895 Connector
Second Tier Subordinate Toll Road Revenue Bond
Series 1998D

and

Pocahontas Parkway Association
Route 895 Connector
Second Tier Subordinate Toll Road Revenue Bond

TABLE OF CONTENTS

Page

ARTICLE I

AUTHORITY, DEFINITIONS AND OTHER INTERPRETATIVE MATTERS

Section 101. Authority 2
Section 102. Interpretation and Construction 2
Section 103. Definitions 3

ARTICLE II
AUTHORIZATION AND PAYMENT OF 1998 BONDS

Section 201. Authorization of 1998 Bonds 5
Section 202. Security for 1998 Bonds 5
Section 203. 1998 Bond Details 5
Section 204. Execution and Authentication of 1998 Bonds 8
Section 205. Purpose 9
Section 206. Application of Proceeds 9
Section 207. Flow of Funds for the Payment of Principal, Redemption Price and Interest 9
Section 208. Securities Depository Provisions 10

ARTICLE III

OPTIONAL AND MANDATORY REDEMPTION OF BONDS AND PREPAYMENT

Section 301. Optional Redemption or Prepayment 11
Section 302. Mandatory Sinking Fund Redemption or Prepayment 12

ARTICLE IV

COVENANTS CONCERNING CERTAIN ACCOUNTS AND CERTAIN AGENTS

Section 401. Establishment of Capitalized Interest Account 12
Section 402. Debt Service Reserve Fund 13
Section 403. Appointment of Certain Fiduciaries and Agents 13

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 501. Events Occurring on Nonbusiness Days 14
Section 502. Parties Interested Herein 14
Section 503. Compliance With Tax Compliance Certificate 14
Section 504. Compliance with Continuing Disclosure Undertaking 14
Section 505. Limitation of Liability of Directors, etc. of Issuer 14
Section 506. Notices 15

EXHIBIT A - Form of Series 1998A Bond A-1
EXHIBIT B - Form of Series 1998B Bond B-1
EXHIBIT C - Form of Series 1998C Bond C-1
EXHIBIT D - Form of Series 1998D Bond D-1
EXHIBIT E - Form of Series 1998E Bond E-1

This **FIRST SUPPLEMENTAL INDENTURE OF TRUST**, dated as of July 1, 1998 (the "First Supplemental Indenture"), by and between **POCAHONTAS PARKWAY ASSOCIATION**, a Virginia non-stock, non-profit corporation (the "Issuer"), and **CRESTAR BANK**, a banking corporation organized under the laws of the Commonwealth of Virginia and having its principal corporate trust office in Richmond, Virginia, not in its individual capacity but solely as trustee under the Master Indenture defined below (in such capacity, together with any successor in such capacity, the "Trustee");

WITNESSETH:

WHEREAS, the Issuer and the Trustee have previously entered into, or are entering into simultaneously with the execution and delivery of this First Supplemental Indenture, a Master Indenture of Trust dated as of July 1, 1998, providing for the issuance of Pocahontas Parkway Association Route 895 Connector Toll Road Revenue Bonds (the "Master Indenture"); and

WHEREAS, this First Supplemental Indenture is a Supplemental Indenture (as defined in the Master Indenture) entered into for the purpose of authorizing five Series of Bonds consisting of (i) $_____ in aggregate principal amount of the Issuer's Bonds to be designated "Pocahontas Parkway Association Route 895 Connector Senior Current Interest Toll Road Revenue Bonds, Series 1998A" (the "Series 1998A Bonds"), (ii) $_____ in aggregate principal amount of the Issuer's Bonds to be designated "Pocahontas Parkway Association Route 895 Connector Senior Capital Appreciation Toll Road Revenue Bonds, Series 1998B" (the "Series 1998B Bonds" and, together with the Series 1998A Bonds, the "1998 Senior Bonds"), (iii) $_____ in aggregate principal amount of the Issuer's Bonds to be designated as "Pocahontas Parkway Association Route 895 Connector First Tier Subordinate Capital Appreciation Toll Road Revenue Bonds, Series 1998C" (the "Series 1998C Bonds"), (iv) $_____ principal amount of the Issuer's Bonds to be designated as "Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998D (the "Series 1998D Bond"), and (v) up to $5,000,000 in outstanding principal amount of the Issuer's Bonds to be designated as "Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998E (the "Series 1998E Bond" and, together with the 1998 Senior Bonds, Series 1998C Bonds and the Series 1998D Bonds, the "1998 Bonds"); and

WHEREAS, the Master Indenture requires the delivery of certain documents to the Trustee in connection with the issuance of any Series of Bonds, including a copy of the Supplemental Indenture authorizing such Bonds and providing the details of such Bonds; and

WHEREAS, the 1998 Bonds are to be in substantially the form attached hereto as Exhibits A, B, C, D and E with appropriate variations, omissions and insertions as are permitted or required by this First Supplemental Indenture; and

WHEREAS, all things necessary to make the 1998 Bonds, when authenticated by the Trustee and issued as provided in this First Supplemental Indenture, valid and binding limited obligations of the Issuer and to constitute this First Supplemental Indenture a valid and binding agreement securing the payment of the principal of and premium, if any, and interest on the 1998 Bonds have been done and performed and the execution and delivery of this First

Supplemental Indenture and the execution and issuance of the 1998 Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS FIRST SUPPLEMENTAL INDENTURE FURTHER WITNESSETH THAT:

The Issuer covenants and agrees with the Trustee and with the respective holders from time to time of the 1998 Bonds or any part thereof as follows:

ARTICLE I

AUTHORITY, DEFINITIONS AND OTHER INTERPRETATIVE MATTERS

Section 101. Authority. This First Supplemental Indenture (the "First Supplemental Indenture") is executed and delivered pursuant to the Master Indenture (as defined in Section 103 hereof).

Section 102. Interpretation and Construction. For purposes of this First Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

1. All references in this First Supplemental Indenture to designated "Articles," "Sections," "subsections," "paragraphs," "clauses" and other subdivisions are to the designated Articles, Sections, subsections, paragraphs, clauses and other subdivisions of this First Supplemental Indenture. The words "herein," "hereof," "hereto," "hereby," "hereunder" and other words of similar import refer to this First Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision.

2. The terms defined in Section 103 hereof have the meanings assigned to them in that Section and include the plural as well as the singular.

3. All the accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as in effect from time to time.

4. As used herein and in the Master Indenture with respect to Bonds which are capital appreciation bonds, the terms "principal," "Principal Installments" and "interest" shall be deemed to include the Accreted Value of such Bonds unless otherwise expressly provided.

5. The term "money" includes any cash, check, deposit, investment security or other form in which any of the foregoing are held hereunder.

6. Every "request," "order," "demand," "application," "appointment," "notice," "statement," "certificate," "consent" or similar action hereunder by the Issuer, the Trustee, the Tender Agent, the Paying Agent, the Registrar or the Bank shall, unless otherwise specifically

provided, be in writing signed by an officer or other agent of such party authorized to sign the same.

7. In the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and each of the words "to" and "until" means "to but excluding."

8. This First Supplemental Indenture and all terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this First Supplemental Indenture.

Section 103. Definitions. Terms defined in the Master Indenture shall have the meanings assigned to them in Appendix A to the Master Indenture, except that if any term is defined in both the Master Indenture and in this Section, the definition of such term in this Section shall control for purposes of this First Supplemental Indenture. For purposes of this First Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

"*1998 Bond Purchase Agreement*" means the Bond Purchase Agreement dated _____ __, 1998, pursuant to which Bear, Stearns & Co. Inc., Lehman Brothers and First Union Capital Markets have agreed to purchase the Series 1998A Bonds, the Series 1998B Bonds and the Series 1998C Bonds from the Issuer.

"*1998 Bonds*" means the Series 1998A Bonds, the Series 1998B Bonds, the Series 1998C Bonds, the Series 1998D Bond and the Series 1998E Bond.

"*1998 Second Tier Subordinate Bonds*" means the Series 1998D Bond and Series 1998E Bond.

"*1998 Senior Bonds*" means the Series 1998A Bonds and the Series 1998B Bonds.

"*Accreted Value*" means, at any date of computation, an amount equal to the original principal amount of a Series 1998B Bond or a Series 1998C Bond, as the case may be, on its date of delivery plus an amount of interest which, based on semiannual compounding on each Compounding Date from its date of delivery on the basis of a 360-day year of twelve 30-day months, will produce a yield to such date of computation approximately equal to the yield for such Bond set forth in Section 203 hereof. Notwithstanding anything in this First Supplemental Indenture to the contrary, the Accreted Value of a Series 1998B Bond or a Series 1998C Bond, as the case may be, shall be equal to the Accreted Value of such Bond as of the preceding Compounding Date, plus a portion of the difference between the Accreted Value of such Bond as of the preceding Compounding Date (or the date of original delivery if the date of computation is before the first Compounding Date) and the Accreted Value of such Bond as of the immediately succeeding Compounding Date, computed based on the assumption that interest accrues during any period in equal daily amounts on the basis of a 360-day year of twelve 30-day months.

"*Capitalized Interest Account*" means the account within the Construction Fund established and designated as such in Section 401 hereof.

"*Capitalized Interest Account Requirement*" means the amount required to be on deposit from time to time in the Capitalized Interest Account pursuant to Section 401 hereof.

"*Compounding Dates*" means each February 15 and August 15, commencing August 15, 1998.

"*First Supplemental Indenture*" means this First Supplemental Indenture of Trust, as it may be further amended from time to time in accordance with the terms hereof and of the Master Indenture.

"*Interest Payment Date*" means, with respect to the Series 1998A Bonds, February 15, and August 15, of each year, commencing February 15, 1999.

"*Paying Agent*" means, with respect to the 1998 Bonds, the Trustee and its successors in such capacity, appointed hereunder.

"*Registrar*" means, with respect to the 1998 Bonds, the Trustee, and its successors in such capacity, appointed hereunder.

"*Series 1998A Bonds*" means the Issuer's Pocahontas Parkway Association Route 895 Connector Senior Current Interest Toll Road Revenue Bonds, Series 1998A.

"*Series 1998B Bonds*" means the Issuer's Pocahontas Parkway Association Route 895 Connector Senior Capital Appreciation Toll Road Revenue Bonds, Series 1998B.

"*Series 1998C Bonds*" means the Issuer's Pocahontas Parkway Association Route 895 Connector First Tier Subordinate Capital Appreciation Toll Road Bonds, Series 1998C.

"*Series 1998D Bond*" means the Issuer's Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998D.

"*Series 1998E Bond*" means the Issuer's Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998E.

"*Series 1998A Capitalized Interest Subaccount*" means the subaccount within the Capitalized Interest Account established and designated as such in Section 401 hereof.

"*Series 1998A Capitalized Interest Subaccount Requirement*" means the amount required to be deposited in the Series 1998A Bonds Capitalized Interest Subaccount pursuant to Section 401 hereof.

ARTICLE II

AUTHORIZATION AND PAYMENT OF 1998 BONDS

Section 201. Authorization of 1998 Bonds. There is hereby authorized to be issued and shall be issued under and secured by the Master Indenture and this First Supplemental Indenture three separate Series of Bonds designated as follows: (a) "Pocahontas Parkway Association Route 895 Connector Senior Current Interest Toll Road Revenue Bonds, Series 1998A," in the aggregate principal amount of $_____; (b) "Pocahontas Parkway Association Route 895 Connector Senior Capital Appreciation Toll Road Revenue Bonds, Series 1998B," in the aggregate Accreted Value at maturity of $_____; (c) "Pocahontas Parkway Association Route 895 Connector First Tier Subordinate Capital Appreciation Bonds, Series 1998C," in the aggregate Accreted Value at maturity of $_____; (d) "Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998D," in the principal amount of $_____; and (e) "Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998E," in a principal amount not to exceed $5,000,000 at any one time outstanding.

Section 202. Security for 1998 Bonds. The 1998 Bonds are Bonds within the meaning of the Master Indenture and payable from and secured by the Trust Estate in accordance with the terms of the Master Indenture and this First Supplemental Indenture.

Section 203. 1998 Bond Details.

1. Each 1998 Bond shall be issued only as a fully registered Bond. Each Series 1998A Bond shall be substantially in the form of Exhibit A hereto, each Series 1998B Bond shall be substantially in the form of Exhibit B hereto, each Series 1998C Bond shall be substantially in the form of Exhibit C hereto, the Series 1998D Bond shall be in substantially the form of Exhibit D hereto, and the Series 1998E Bond shall be substantially in the form of Exhibit E hereto, in each case, with such changes therein, not inconsistent with this First Supplemental Indenture, as are approved by the Authorized Issuer Representative executing the 1998 Bonds (whose manual or facsimile signature on such Bonds shall constitute conclusive evidence of his or her approval of any such changes appearing therein).

2. The Series 1998A Bonds shall be dated July 1, 1998, shall be issued in denominations of $100,000 and any integral multiples of $5,000 in excess thereof, shall be numbered 1998A-1 upward and shall bear interest at rates, payable annually on each August 15, in years and amounts, as follows:

Year	Amount	Rate	Year	Amount	Rate
		%			%

Each Series 1998A Bond shall bear interest (a) from its date if such Series 1998A Bond is authenticated prior to the first Interest Payment Date, or (b) otherwise from the Interest Payment Date that is, or immediately precedes, the date on which such Series 1998A Bond is

authenticated; provided, however, that if at the time of authentication of any Series 1998A Bond payment of interest is in default, such Series 1998A Bond shall bear interest from the date to which interest has been paid. If any principal of or interest on any Series 1998A Bond is not paid when due (whether at maturity, or call for redemption or otherwise), then the overdue installments of principal shall bear interest until paid at the same rate set forth in such Series 1998A Bond.

Interest on the Series 1998A Bonds shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

3. The Series 1998B Bonds shall be dated the date of their original issuance and delivery, shall be issued in original principal amounts which at maturity will have an Accreted Value of $100,000 or any integral multiples thereof, shall be numbered 1998B-1 upwards and shall bear interest which shall accrue from their date and compound semiannually on each Compounding Date, beginning August 15, 1998, at rates that will produce yields to maturity approximately equal to the yields set forth below. The Series 1998B Bonds shall mature in installments on August 15 in years and amounts, as follows:

Year	Original Principal Amount	Amount at Maturity	Approximate Yield to Maturity

The Accreted Value of the Series 1998B Bonds on each Compounding Date to their respective maturity dates shall be as set forth below:

Date	Maturity / /	Maturity / /	Maturity / /

Date	Maturity / /	Maturity / /	Maturity / /

4. The Series 1998C Bonds shall be dated the date of their original issuance and delivery, shall be issued in original principal amounts which at maturity will have an Accreted Value of $100,000 or any integral multiples thereof, shall be numbered 1998C-1 upwards and shall bear interest which shall accrue from their date and compound semiannually on each Compounding Date, beginning August 15, 1998, at rates that will produce yields to maturity approximately equal to the yields set forth below. The Series 1998C Bonds shall mature in installments on August 15 in years and amounts, as follows:

Year	Original Principal Amount	Amount at Maturity	Approximate Yield to Maturity

The Accreted Value of the Series 1998C Bonds on each Compounding Date to their respective maturity dates shall be as set forth below:

Date	Maturity / /	Maturity / /	Maturity / /

Date	Maturity / /	Maturity / /	Maturity / /

5. The Series 1998D Bond shall be dated the date of its execution and delivery and a single Bond shall evidence the aggregate principal amount thereof. The Series 1998D Bond shall mature on August 15, 2028. The Series 1998D Bond shall bear interest at a floating rate equal to Transportation Trust Fund Earnings Rate. The Series 1998D Bond shall bear interest from the date that amounts are advanced from the Series 1998D Bond Proceeds Account for application to non-construction costs of the Project on the amount of such advances until paid. In addition, to the extent that a note issued under SIB Loan Agreement has been exchanged for

a portion of the Series 1998D Bond on the Financial Closing Date, interest on the Series 1998D Bond shall include interest accrued on such note to such date. Upon such exchange, the Department shall give the Trustee written notice of the amount of such accrued interest. The Department shall also give the Trustee written notice of the Transportation Trust Fund Earnings Rate for each month. Interest on the Series 1998D Bond shall be computed on the basis of the actual number of days elapsed in the computation period. Payments under the Series 1998D Bond shall be applied first to interest and then to principal.

6. The Series 1998E Bond shall be dated the date of its execution and delivery and a single Bond in the notional principal amount of $5,000,000 shall evidence the principal amount of advances outstanding thereunder from time to time. The principal amount owing under the Series 1998E Bond shall be the amount of advances made and remaining unpaid thereunder, not to exceed $5,000,000 at any one time outstanding. The Series 1998E Bond shall mature on August 15, 2028. The advances under the Series 1998E Bond shall bear interest from the date of such advances at the rate of 12% per annum, compounded semi-annually on February 15 and August 15, if, in the opinion of Bond Counsel, such interest is includable in gross income for federal income tax purposes, or 11% per annum, compounded semi-annually on February 15 and August 15, if, in the opinion of Bond Counsel, such interest is not includable in gross income for federal income tax purposes. Interest on the Series 1998E Bond shall be computed on the basis of the actual number of days elapsed in the computation period. Payments under the Series 1998E Bond shall be applied first to interest and then to principal.

7. Principal and Redemption Price of the Series 1998A Bonds and Accreted Value and Redemption Price of the Series 1998B Bonds and the Series 1998C Bonds shall be payable by the Paying Agent to or upon the order of the Owner thereof upon presentation and surrender of such Bonds at the principal corporate trust office of the Paying Agent. Interest on the Series 1998A Bonds shall be paid by the Paying Agent on each Interest Payment Date (i) by check or draft mailed on such date to the Owner thereof at such Owner's address as it appears on the Register on the Record Date for such Interest Payment Date, or (ii) by wire transfer in accordance with a written notice and completed wire instructions for a wire transfer address in the continental United States provided by the Owner thereof to the Paying Agent not less than 15 days prior to such Interest Payment Date (which notice may provide that it will remain in effect with respect to subsequent Interest Payment Dates unless and until changed or revoked by subsequent notice); provided that such wire transfer shall only be made for an Owner of $1,000,000 or more in aggregate principal amount of the Series 1998A Bonds as of the close of business on the Record Date for such Interest Payment Date. Notwithstanding any other provisions hereof or of the Master Indenture, the Record Date for defaulted interest shall be the fifth day preceding payment thereof.

8. Principal and interest on the Series 1998D and Series 1998E Bonds shall be made from transfers to the Second Tier Subordinate Debt Service Account as provided in the Indenture to the respective Register Owners of such Bonds.

Section 204. Execution and Authentication of 1998 Bonds. The 1998 Bonds shall be executed and authenticated as provided in the Master Indenture.

Section 205. Purpose. The 1998 Senior Bonds, the Series 1998C Bonds and the Series 1998D Bond are being issued for the purpose of paying Costs of the Project. The Series 1998E Bond is being issued for the purpose of replenishing the Debt Service Reserve Fund as provided in the Contractor Loan Agreement.

Section 206. Application of Proceeds.

1. Proceeds from the sale of the Series 1998A, Series 1998B and Series 1998C Bonds shall be applied as follows:

(a) an amount equal to the accrued interest on the Series 1998A Bonds from their dated date to the date on which they are issued shall be deposited into the Senior Bonds Debt Service Account of the Debt Service Fund;

(b) $_____ shall be deposited into the Senior Bonds Debt Service Reserve Account of the Debt Service Reserve Fund;

(c) $_____ shall be deposited into the First Tier Subordinate Bonds Debt Service Reserve Account of the Debt Service Reserve Fund;

(d) $_____ shall be deposited into the Series 1998A Capitalized Interest Subaccount of the Capitalized Interest Account of the Construction Fund; and

(e) the remainder shall be deposited into the Construction Fund and shall be used to pay Costs of the Project.

2. Proceeds from the sale of the Series 1998D Bond shall be deposited in the Series 1998D Bond Proceeds Account of the Construction Fund and $400,000 of such proceeds shall be held in the Pre-Opening Expense Subaccount of Series 1998D Bond Proceeds Account.

3. Proceeds from advances under the Series 1998E Bond, if any, shall be deposited in the Debt Service Fund for the 1998 Senior Bonds and/or the Series 1998C Bonds in accordance with subsection 3 of Section 506 of the Master Indenture.

Section 207. Flow of Funds for the Payment of Principal, Redemption Price and Interest. No later than noon, Eastern time, on each Interest Payment Date, on each Redemption Date, on the date there are any amounts in the Second Tier Subordinate Debt Service Account and on the date of final maturity for the 1998 Bonds, the Trustee shall provide to the Paying Agent from amounts deposited to the appropriate Account of the Debt Service Fund from time to time pursuant to the Master Indenture, or to the extent required from such other Funds and Accounts available therefor under the Master Indenture, immediately available funds sufficient to pay the principal or Redemption Price of and interest on the 1998 Bonds then due, and the Paying Agent shall thereupon pay the principal or Redemption Price of and interest on such 1998 Bonds to the Owners thereof as provided in subsection 7 of Section 203 hereof.

Section 208. Securities Depository Provisions. As set forth in the Letter of Representations, the Series 1998A Bonds, the Series 1998B Bonds and the Series 1998C Bonds are eligible for deposit with the Securities Depository. Initially, one Bond certificate for each maturity of such Bonds will be issued and registered to the Securities Depository, or its nominee, and deposited with the Securities Depository or its custodian. The Securities Depository will maintain a book-entry system with respect to such Bonds.

In the event that (a) the Securities Depository determines not to continue to act as a securities depository for such Bonds by giving notice to the Trustee and the Issuer discharging its responsibilities hereunder, or (b) the Issuer, at the direction of the Issuer given in its sole discretion, determines (i) that beneficial owners of such Bonds shall be able to obtain certificated Bonds or (ii) to select a new Securities Depository, then the Issuer shall attempt to locate another qualified securities depository to serve as Securities Depository and the Trustee shall authenticate and deliver certificated Bonds to the new Securities Depository or its nominee, or authenticate and deliver certificated Bonds to the beneficial owners or to the Securities Depository participants on behalf of beneficial owners substantially in the form provided for herein. In delivering certificated Bonds, the Trustee shall be entitled to rely on the instructions of the Securities Depository as to the names in which the certificated Bonds are to be registered. Such certificated Bonds will then be registrable, transferable and exchangeable as set forth herein.

So long as there is a Securities Depository for such Bonds (1) it or its nominee shall be the registered Owner of such Bonds, (2) notwithstanding anything to the contrary in the Master Indenture, determinations of persons entitled to payment of principal, premium, if any, and interest, transfers of ownership and exchanges and receipt of notices shall be the responsibility of the Securities Depository and shall be effected pursuant to rules and procedures established by such Securities Depository, (3) the Issuer and the Trustee shall not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Securities Depository, its participants or persons acting through such participants, (4) references in the Master Indenture and herein to Owners of such Bonds shall mean such Securities Depository or its nominee and shall not mean the beneficial Owners of such Bonds and (5) in the event of any inconsistency between the provisions of the Master Indenture and the provisions of the Letter of Representations such provisions of the Letter of Representations, except to the extent set forth in this paragraph and the next preceding paragraph, shall control.

After such Bonds have been delivered to the Securities Depository as provided in this Section, beneficial owners of the Bonds so delivered shall not be entitled to receive Bonds in certificated form, except in the circumstances set forth in the second preceding paragraph.

ARTICLE III

OPTIONAL AND MANDATORY REDEMPTION OF BONDS AND PREPAYMENT

Section 301. Optional Redemption or Prepayment.

1. The Series 1998A Bonds shall be subject to redemption at the option of the Issuer at the direction of the Department, in whole or in part at any time, at a Redemption Price (expressed as a percentage of principal amount) determined in accordance with the schedule set forth below, together with interest accrued thereon to the Redemption Date:

Redemption Date	Price
On or after August 15, ____, and on or before August 14, ____	%
On or after August 15, ____, and on or before August 14, ____	
On or after August 15, ____, and on or before August 14, ____	

2. The Series 1998B Bonds shall be subject to redemption at the option of the Issuer at the direction of the Department, in whole or in part at any time, in increments of original principal amounts which would have reached an Accreted Value at maturity of $100,000 or any integral multiple thereof, during the following redemption periods, at a Redemption Price (expressed as a percentage of the Accreted Value as of the Redemption Date of the Series 1998B Bonds to be redeemed) determined in accordance with the schedule set forth below:

Redemption Date	Price
On or after August 15, ____, and on or before August 14, ____	%
On or after August 15, ____, and on or before August 14, ____	
On or after August 15, ____, and on or before August 14, ____	

3. The Series 1998C Bonds shall be subject to redemption at the option of the Issuer at the direction of the Department, in whole or in part at any time, in increments of original principal amounts which would have reached an Accreted Value at maturity of $100,000 or any integral multiple thereof, during the following redemption periods, at a Redemption Price (expressed as a percentage of the Accreted Value as of the Redemption Date of the Series 1998C Bonds to be redeemed) determined in accordance with the schedule set forth below, together with interest accrued thereon to the Redemption Date:

Redemption Date	Price
On or after August 15, ____, and on or before August 14, ____	%
On or after August 15, ____, and on or before August 14, ____	
On or after August 15, ____, and on or before August 14, ____	

4. The Series 1998D Bond shall be subject to prepayment at the option of the Issuer at the direction of the Department, in whole or in part at any time, without premium.

5. The Series 1998E Bond shall be subject to prepayment at the option of the Issuer at the direction of the Department, in whole or in part at any time, without premium.

Section 302. Mandatory Sinking Fund Redemption or Prepayment.

1. The Series 1998A Bonds maturing on August 15, ____, are subject to mandatory redemption, at a Redemption Price equal to the principal amount of the Series 1998A Bonds redeemed, together with accrued interest thereon to the Redemption Date, pursuant to Sinking Fund Installments on August 15 in each of the years and principal amounts set forth in the table below, except that the Sinking Fund Installments of Series 1998A Bonds shall be reduced in chronological order by the principal amount of any Series 1998A Bonds redeemed pursuant to any other optional or mandatory redemption provision on or before the date on which any such Sinking Fund Installment is due:

Year	Sinking Fund Installment
(Final Maturity)	

2. The Series 1998D Bond and the Series 1998E Bond are subject to mandatory prepayment pro rata from amounts in the Second Tier Subordinate Debt Service Account pursuant to the Master Indenture after payment of accrued interest thereon.

ARTICLE IV

COVENANTS CONCERNING CERTAIN ACCOUNTS AND CERTAIN AGENTS

Section 401. Establishment of Capitalized Interest Account.

1. The Issuer hereby establishes, as a separate account within the Construction Fund, the "Pocahontas Parkway Association Route 895 Connector Revenue Bonds Capitalized Interest Account" (the "Capitalized Interest Account") to be used to pay interest on Bonds as provided in this Supplemental Indenture and any other Supplemental Indenture.

2. The Issuer hereby establishes, as a separate subaccount within the Capitalized Interest Account, the "Series 1998A Capitalized Interest Subaccount." The "Series 1998A Capitalized Interest Subaccount Requirement" is $_____; provided, however, that, upon receipt by the Trustee of a certificate of a Consultant to the effect that the amount on deposit in the Series 1998A Capitalized Interest Subaccount, including the maturing principal amounts and scheduled interest due on Investment Securities on deposit therein, is in excess of the amount required to pay the interest due on the Series 1998A Bonds on or before _____, the Series 1998A Capitalized Interest Subaccount Requirement shall be decreased by such excess and the Trustee shall transfer such excess to the Construction Fund and, provided further, amounts remaining in the Capitalized Interest Account after the toll free period provided for in Section 717 of the Master Indenture shall be transferred to the Construction Fund, unless there is delivered to the Trustee an opinion of Bond Counsel that using amounts remaining in the Series 1998A Capitalized Interest Account to pay interest on the Series 1998A Bonds will not impair the exclusion of interest on such Bonds from gross income for federal income tax purposes. On each Interest Payment Date for the Series 1998A Bonds, to the extent of the positive balance in the Series 1998A Capitalized Interest Subaccount, amounts in the Series 1998A Capitalized Interest Subaccount equal to the interest due on the Series 1998A Bonds on such Interest Payment Date shall be transferred to the Senior Bonds Debt Service Account. Moneys in the Series 1998A Capitalized Interest Subaccount shall not be available in respect of any Bonds other than the Series 1998A Bonds and moneys in the Capitalized Interest Account that are not in the Series 1998A Capitalized Interest Subaccount shall not be available in respect of the Series 1998A Bonds.

Section 402. Debt Service Reserve Fund. Notwithstanding any other provision hereof, but subject to subsection 5 of Section 508 of the Master Indenture, the Trustee at the written direction of the Issuer and with the written consent of the Department, at any time shall substitute for the cash deposit in the Debt Service Reserve Fund or any Account or Subaccount thereof, a letter of credit, surety bond, insurance policy, agreement guaranteeing payment or other undertaking by a financial institution to insure that cash in the amount otherwise required to be maintained therein will be available to the Trustee as needed, provided that the Trustee receives written evidence (or other evidence satisfactory to the Trustee) from each Rating Agency that such substitution will not, by itself, result in a withdrawal of or reduction in its rating of any Bonds. Upon any such substitution, the cash deposit in such Fund, Account or Subaccount shall be transferred to the Construction Fund or the Revenue Fund, as directed by the Issuer and with the written consent of the Department.

Section 403. Appointment of Certain Fiduciaries and Agents. The Trustee is hereby appointed as the Paying Agent, Registrar and Authenticating Agent for the Bonds. The Trustee hereby accepts and agrees to execute the trusts hereby created, but only upon the additional terms set forth in Article X of the Master Indenture, to all of which the Issuer agrees and the respective Owners of the Bonds agree by their acceptance of delivery of any of the Bonds.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 501. Events Occurring on Nonbusiness Days. Except as otherwise provided in this Section, (i) in any case where interest is to accrue on any Bond through a day which is not immediately followed by a Business Day, such interest shall not accrue through such day but shall accrue through the next succeeding day which is immediately followed by a Business Day; and (ii) in any case where any date on which any payment or other action by any person relevant to the operation of this First Supplemental Indenture is to occur on a day which is not a Business Day, such event shall not occur on such day but shall occur on the next succeeding Business Day with the same force and effect as if it occurred on such day. Notwithstanding the preceding sentence, in any case where any drawing under or payment pursuant to a Credit Facility is to be made on a day which is not a Business Day, such drawing or payment shall not be made on such day but shall be made on the immediately preceding Business Day with the same force and effect as if it was made on such day.

Section 502. Parties Interested Herein. Except as otherwise expressly provided herein or by Supplemental Indenture, all the covenants, stipulations, promises and agreements herein contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Trustee, other Fiduciaries and agents of the Issuer and the Owners of the Bonds and the Department, and nothing in this First Supplemental Indenture is intended nor shall it be construed to confer upon or to give, to any person, other than the Issuer, the Trustee, any other Fiduciary or agent of the Issuer and the Owners of the Bonds and the Department, any right, remedy or claim under or by reason hereof or any covenant, condition or stipulation hereof.

Section 503. Compliance With Tax Compliance Certificate. The Issuer and the Trustee shall invest all moneys in the Funds and Accounts created pursuant to the Master Indenture and this First Supplemental Indenture in accordance with the representations set forth in any Tax Compliance Certificate delivered by the Issuer in connection with the issuance of the 1998 Bonds, unless the Trustee receives an opinion of Bond Counsel, in form and substance satisfactory to the Trustee, that noncompliance with such representations will not cause interest on the Bonds to be or become subject to federal income taxation.

Section 504. Compliance with Continuing Disclosure Undertaking. The Issuer agrees to comply with the Continuing Disclosure Undertaking Agreement delivered by the Issuer in connection with the issuance of the 1998 Bonds.

Section 505. Limitation of Liability of Directors, etc. of Issuer. The obligations of the Issuer under this Supplemental Indenture are limited obligations, payable solely from the assets of the Issuer made available hereunder; and recourse against the Issuer shall be limited to such sources. No covenant or agreement contained in the Bonds, the Master Indenture, this or any Supplemental Indenture shall be deemed to be the covenant or agreement of any member of the Board or any officer, agent, employee or representative of the Issuer, and neither the officers, agents, employees or representatives of the Issuer nor any person executing the Bonds shall be

personally liable thereon or be subject to any personal liability or accountability by reason of the issuance thereof, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the execution of the Master Indenture, or this or any Supplemental Indenture and the issuance of the Bonds unless liability is the result of fraud, intentional misrepresentation, willful misconduct or knowing violation of criminal law by such member of the Board, officer, agent, employee or representative.

Section 506. Notices. Notices to an Owner shall be deemed to have been given upon deposit in the United States mail, postage prepaid, addressed to the address for such Owner shown on the Register on such date. Any notice, demand, direction, request or other instrument authorized or required by this First Supplemental Indenture to be given or delivered to or filed with the Issuer, the Trustee, the Paying Agent, the Registrar or the Authenticating Agent shall be deemed to have been given only upon receipt. Any such notice, demand, direction, request or other instrument hereunder shall also be given to the Department. Any such notice, demand, direction, request or other instrument shall be in writing, or oral confirmed within 24 hours by writing, sent by first class or overnight mail, postage prepaid, or actually delivered, to the address specified below or, to such other address as may be designated in writing by the parties, and filed with the Trustee:

If to Issuer:	Pocahontas Parkway Association c/o Williams, Mullen, Christian & Dobbins Two James Center 1021 East Cary Street Richmond, Virginia 23219 Fax: (804) 783-6507 Attn: Ralph L. "Bill" Axselle, Esquire
With a copy to:	R. Hart Lee, Esquire Williams, Mullen, Christian & Dobbins Two James Center 1021 East Cary Street Richmond, Virginia 23219 Fax: (804) 783-6507
If to Trustee:	Crestar Bank 919 East Main Street Richmond, Virginia 23219 Fax: (804) 782-7855 Attn: K. A. Pickerel
With a copy to:	Michael W. Graff, Jr., Esquire McGuire, Woods, Battle & Boothe LLP One James Center Richmond, Virginia 23219-4030 Fax: (804) 775-1061

If to Department:	Virginia Department of Transportation 1401 East Broad Street Richmond, Virginia 23219 Attn: Commissioner Fax: (804) 786-6250
With a copy to:	James F. Hayes, Esquire Senior Assistant Attorney General 900 East Main Street Richmond, Virginia 23219 Fax: (804) 786-9136
And to:	Geoffrey S. Yarema, Esquire Nossaman, Guthner, Knox & Elliott, LLP 445 S. Figueroa Street, 31st Floor Los Angeles, California 90071-6302 Fax: (213) 612-7801

Such notice may be made by facsimile transmission (a) where the transmitting party includes a cover sheet identifying the name, location and identity of the transmitting party, the phone number of the transmitting device, the date and time of transmission and the number of pages transmitted (including the cover page), (b) where the transmitting device or receiving device records verification of receipt and the date and time of transmission receipt and the phone number of the other device, and (c) where the facsimile transmission is immediately followed by sending a copy of the original in the manner provided above.

Section 507. Execution in Several Counterparts. This First Supplemental Indenture may be simultaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

IN WITNESS WHEREOF, the Issuer has caused this First Supplemental Indenture to be executed by its President, and the Trustee has caused this First Supplemental Indenture to be executed on its behalf by one of its duly authorized officers all as of the day and year first written above.

POCAHONTAS PARKWAY ASSOCIATION

By:_____
Joseph R. Jenkins, President

CRESTAR BANK, as Trustee

By:_____
K. A. Pickerel, Vice President

EXHIBIT A

FORM OF SERIES 1998A BOND

REGISTERED

1998A - _____

REGISTERED

$_____

POCAHONTAS PARKWAY ASSOCIATION
ROUTE 895 CONNECTOR
SENIOR CURRENT INTEREST TOLL ROAD REVENUE BONDS
SERIES 1998A

INTEREST RATE	MATURITY DATE	DATED DATE	CUSIP
_____%	August 15, ____	July 1, 1998	_____

REGISTERED OWNER:

PRINCIPAL AMOUNT:

Pocahontas Parkway Association (the "Issuer"), for value received, hereby promises to pay upon surrender hereof at the principal corporate trust office of Crestar Bank, Richmond, Virginia (the "Trustee"), solely from the sources and as herein provided, to the registered Owner hereof, or the registered assigns or legal representatives, the principal sum stated above on the maturity date stated above, subject to prior redemption as herein provided, and to pay, solely from such sources, interest hereon semiannually on each February 15 and August 15 (each, an "Interest Payment Date"), beginning February 15, 1999, at the annual rate stated above. Interest is payable from (a) July 1, 1998, if this Series 1998A Bond is authenticated prior to February 15, 1999, or (b) otherwise from the February 15 or August 15, that is, or immediately precedes, the date on which this Series 1998A Bond is authenticated (unless payment of interest hereon is in default, in which case this Series 1998A Bond shall bear interest from the date to which interest has been paid). Capitalized terms used herein and not defined shall have the meanings given to such terms in the Master Indenture of Trust dated as of July 1, 1998 (the "Master Indenture"), between the Issuer and the Trustee. THIS BOND SHALL BE A SPECIAL, LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM THE TRUST ESTATE IN ACCORDANCE WITH THE INDENTURE. THE DEPARTMENT'S APPROVAL OF THE ISSUANCE OF THIS BOND AND OF THE DOCUMENTS PERTAINING TO THIS BOND SHALL NOT BE CONSTRUED AS A GUARANTEE OR ENDORSEMENT OF THIS BOND OR THE TRAFFIC AND REVENUE STUDY OR ANY REPRESENTATION, WARRANTY OR OTHER ASSURANCE AS TO THE ABILITY OF THE ISSUER TO PERFORM ITS OBLIGATIONS WITH RESPECT TO THIS BOND OR

THE ADEQUACY OF THE TOLL REVENUES TO PROVIDE FOR PAYMENT OF THIS BOND. THIS BOND SHALL NOT BE A DEBT OF THE COMMONWEALTH OF VIRGINIA, THE DEPARTMENT, CTB OR ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE, MORAL OR OTHERWISE, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE, THE DEPARTMENT, CTB OR ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND.

Interest is payable on each Interest Payment Date (i) by check or draft mailed on such date to the Owner thereof at such Owner's address as it appears on the Register, as defined in the Indenture, as hereafter defined, on the fifteenth day next preceding such Interest Payment Date (the "Record Date"), or (ii) by wire transfer in accordance with a written notice and completed wire instructions for a wire transfer address in the continental United States provided by the Owner thereof to the Paying Agent not less than 15 days prior to such Interest Payment Date (which notice may provide that it will remain in effect with respect to subsequent Interest Payment Dates unless and until changed or revoked by subsequent notice); provided that such wire transfer shall only be made for an Owner of $1,000,000 or more in aggregate principal amount of the Bonds as of the close of business on the Record Date for such Interest Payment Date. Notwithstanding the foregoing, the Record Date for defaulted interest shall be the fifth day preceding payment thereof. This Series 1998A Bond shall be payable as to principal and Redemption Price, as defined in the Indenture, and interest in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

Notwithstanding any other provision hereof, this Series 1998A Bond is subject to book-entry form maintained by DTC, and the payment of principal, premium, if any, and interest, the providing of notices and other matters shall be made as described in the Issuer's Letter of Representations to DTC.

This Series 1998A Bond is one of an issue of $_____ Pocahontas Parkway Association Route 895 Connector Senior Current Interest Toll Road Revenue Bonds, Series 1998A (the "Series 1998A Bonds"), being issued concurrently with the Issuer's (i) Pocahontas Parkway Association Route 895 Connector Senior Capital Appreciation Toll Road Revenue Bonds, Series 1998B (the "Series 1998B Bonds"), in the aggregate Accreted Value at maturity of $_____, (ii) Pocahontas Parkway Association Route 895 Connector First Tier Subordinate Capital Appreciation Toll Road Revenue Bonds, Series 1998C (the "Series 1998C Bonds"), in the aggregate Accreted Value at maturity of $_____, (iii) Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998D (the "Series 1998D Bond"), in the principal amount of $_____, and (iv) Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998E (the "Series 1998E Bond"), in the principal amount of up to $5,000,000, to finance Costs of the Project, as defined in the Indenture, including the funding of a debt service reserve fund, and to pay Costs of Issuance, as defined in the Indenture.

The Series 1998A Bonds are issued under the Master Indenture, as supplemented by a First Supplemental Indenture of Trust dated as of July 1, 1998 (the "First Supplemental Indenture" and, together with the Master Indenture, as amended, the "Indenture"). Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer, the rights of the Owners, as defined in the Indenture, of the Series 1998A Bonds and the terms upon which the Series 1998A Bonds are issued and secured. Additional bonds ranking on parity with or subordinate to the Series 1998A Bonds may be issued on the terms provided in the Indenture.

The Series 1998A Bonds are being issued on a parity in terms of payment of principal, Accreted Value, premium, if any, and interest, as appropriate, with the Series 1998B Bonds and any other Senior Bonds.

The Series 1998A Bonds may not be called for redemption by the Issuer except as provided herein and in the Indenture. Series 1998A Bonds maturing on or before August 15, _____, are not subject to redemption prior to maturity.

Series 1998A Bonds maturing on or after August 15, _____, are subject to redemption prior to maturity at the option of the Issuer, at the direction of the Department, on or after August 15, _____, in whole or in part at any time, at a Redemption Price (expressed as a percentage of principal amount of the Series 1998A Bonds to be redeemed) determined in accordance with the schedule set forth below, together with interest accrued to thereon to the Redemption Date, as defined in the Indenture:

Redemption Date	**Price**
On or after August 15, ____ and on or before August 14, ____	%
On or after August 15, ____ and on or before August 14, ____	
On or after August 15, ____ and on or before August 14, ____	

The Series 1998A Bonds maturing on August 15, ____, are subject to mandatory redemption, at a Redemption Price equal to the principal amount of the Series 1998A Bonds redeemed, together with accrued interest thereon to the Redemption Date, pursuant to Sinking Fund Installments on August 15 in each of the years and principal amounts set forth in the table below, except that the Sinking Fund Installments of Series 1998A Bonds shall be reduced in chronological order by the principal amount of any Series 1998A Bonds redeemed pursuant to any other optional or mandatory redemption provision on or before the date on which any such Sinking Fund Installment is due:

Year	Sinking Fund Installment
(Final Maturity)	

If less than all of the Series 1998A Bonds shall be called for redemption, the maturities to be redeemed and the method of selection shall be determined by the Issuer. If less than all of a maturity of Series 1998A Bonds shall be called for redemption, the Series 1998A Bonds to be redeemed shall be selected by lot or other random method by the Trustee in such a manner as the Trustee may determine. Each portion of $100,000 principal amount shall be counted as one Series 1998A Bond for such purpose.

If any of the Series 1998A Bonds or portions thereof are called for redemption, the Trustee shall give notice, in the name of the Issuer, of the redemption of such Series 1998A Bonds or portions thereof, by first class mail postage prepaid, not less than 15 days before the Redemption Date, to the Owners of any Series 1998A Bond or portions of Series 1998A Bonds which are to be redeemed, at their last addresses, if any, appearing on the Register. If, on the Redemption Date, moneys for the redemption of all the Series 1998A Bonds or portions thereof of any like maturity to be redeemed, together with interest to the Redemption Date, shall be held by the Trustee or Paying Agent, as defined in the Indenture, so as to be available therefor on said date and if notice of redemption shall have been given as provided in the Indenture, then, from and after the Redemption Date interest on the Series 1998A Bonds or portions thereof of such maturity so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the Redemption Date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

No Owner of any Series 1998A Bond shall have any right to institute any suit, action or proceedings at law or in equity for the appointment of a receiver or for any other remedy under the Indenture or by reason thereof, except to the extent and in the circumstances permitted by the Indenture.

The Series 1998A Bonds are issuable as registered Bonds in denominations of $100,000 or any integral multiple of $5,000 in excess thereof. Upon surrender for transfer or exchange of this Series 1998A Bond at the principal operations center of the Registrar, together with a written instrument of transfer or written request for exchange, as the case may be, satisfactory to the Registrar duly executed by the Owner or the Owner's duly authorized attorney, the Issuer

shall execute and the Trustee or the duly authorized Authenticating Agent, as defined in the Indenture, shall authenticate and deliver Series 1998A Bonds in accordance with the provisions of, and subject to the limitations and conditions contained in, the Indenture, a new Series 1998A Bond or Series 1998A Bonds of the same aggregate principal amount and maturity as the surrendered Series 1998A Bond. For every such transfer of Series 1998A Bonds pursuant to the Indenture, whether temporary or definitive, the Issuer, the Trustee, the Registrar, and any Authenticating Agent may make a charge sufficient to reimburse it or them for any expense, tax, fee or other governmental charge required to be paid with respect to such transfer. In addition for every exchange of Series 1998A Bonds (other than the exchange of temporary Series 1998A Bonds for definitive Series 1998A Bonds), the Issuer, the Trustee, the Registrar, and any Authenticating Agent may make reasonable charges to cover the costs of printing Series 1998A Bonds including any Trustee's, Registrar's, or Authenticating Agent's charges in connection therewith. The payment of such sum or sums shall be made by the Owner requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The Registrar shall not be required to transfer or exchange Series 1998A Bonds for a period of 15 days next preceding the selection of Series 1998A Bonds for redemption or to transfer or exchange any Series 1998A Bonds called for redemption.

The Issuer, the Trustee, and any other Fiduciary, as defined in the Indenture, may deem and treat the person in whose name this Series 1998A Bond shall be registered in the Register as the absolute Owner of this Series 1998A Bond, whether this Series 1998A Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price of and interest on this Series 1998A Bond and for all other purposes, and all such payments so made to any such Owner or upon the Owner's order shall be valid and effectual to satisfy and discharge the liability upon this Series 1998A Bond to the extent of the sum or sums so paid, and the Issuer, the Trustee, and any other Fiduciary shall not be affected by any notice to the contrary. Notwithstanding the foregoing, interest on this Series 1998A Bond, other than interest payable at maturity or on a Redemption Date, shall be paid to the Person, as defined in the Indenture, in whose name this Series 1998A Bond is registered on the Register at the close of business on the Record Date for such Interest Payment Date.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Series 1998A Bond have happened, exist and have been performed.

This Series 1998A Bond shall not be valid or entitled to any security or benefit under the Indenture until the Trustee shall have executed the Certificate of Authentication appearing hereon and inserted the date of authentication hereon.

IN WITNESS WHEREOF, Pocahontas Parkway Association has caused this Series 1998A Bond to be signed by its President or such other officer of the Issuer authorized to do so by resolution of the Board by his manual signature and its corporate seal to be impressed thereon and attested to by the manual signature of its Secretary or Assistant Secretary, and this Series 1998A Bond to be dated the date set forth above.

POCAHONTAS PARKWAY ASSOCIATION

By:_____
Joseph R. Jenkins, President

(SEAL)

Attest:

_____
Bruce A. Kay, Secretary

(Form of Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

Date of Authentication:_____

This Series 1998A Bond is one of the Series 1998A Bonds of the issue described in the within-mentioned Indenture.

CRESTAR BANK, Trustee

By:_____
Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sell(s), assign(s) and transfer(s) unto _____

_____

_____

(Please print or typewrite Name and Address
including postal zip code of Transferee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OR TRANSFEREE

the within Bond and all rights thereunder, hereby irrevocably constituting and appointing

_____

_____

_____, Attorney, to transfer said Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed

_____

NOTICE: Signature(s) must be guaranteed by an Eligible Guarantor Institution such as a Commercial Bank, Trust Company, Securities Broker/Dealer, Credit Union, or Savings Association who is a member of a medallion program approved by The Securities Transfer Association, Inc.

EXHIBIT B

FORM OF SERIES 1998B BOND

REGISTERED

ACCRETED VALUE
AT MATURITY

1998B - _____

$_____

POCAHONTAS PARKWAY ASSOCIATION
ROUTE 895 CONNECTOR
SENIOR CAPITAL APPRECIATION TOLL ROAD REVENUE BONDS
SERIES 1998B

MATURITY DATE	DATED DATE	CUSIP
August 15, ____	July 1, 1998	_____

REGISTERED OWNER:

ACCRETED VALUE AT MATURITY:

Pocahontas Parkway Association (the "Issuer"), for value received, hereby promises to pay upon surrender hereof at the principal corporate trust office of Crestar Bank, Richmond, Virginia (the "Trustee"), solely from the sources and as herein provided, to the registered Owner hereof, or the registered assigns or legal representatives, the Accreted Value stated above on the maturity date stated above, subject to prior redemption as herein provided. Capitalized terms used herein and not defined shall have the meanings given to such terms in the Master Indenture of Trust dated as of July 1, 1998 (the "Master Indenture"), between the Issuer and the Trustee. THIS BOND SHALL BE A SPECIAL, LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM THE TRUST ESTATE IN ACCORDANCE WITH THE INDENTURE. THE DEPARTMENT'S APPROVAL OF THE ISSUANCE OF THIS BOND AND OF THE DOCUMENTS PERTAINING TO THIS BOND SHALL NOT BE CONSTRUED AS A GUARANTEE OR ENDORSEMENT OF THIS BOND OR THE TRAFFIC AND REVENUE STUDY OR ANY REPRESENTATION, WARRANTY OR OTHER ASSURANCE AS TO THE ABILITY OF THE ISSUER TO PERFORM ITS OBLIGATIONS WITH RESPECT TO THIS BOND OR THE ADEQUACY OF THE TOLL REVENUES TO PROVIDE FOR PAYMENT OF THIS BOND. THIS BOND SHALL NOT BE A DEBT OF THE COMMONWEALTH OF VIRGINIA, THE DEPARTMENT, CTB OR ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE, MORAL OR OTHERWISE, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE, THE DEPARTMENT, CTB OR ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND.

Interest hereon shall accrue from the date of this Series 1998B Bond and shall compound semiannually on each February 15 and August 15 (the "Compounding Dates"), beginning August 15, 1998, but shall be payable only at maturity or earlier redemption, as a component of the Accreted Value. The Accreted Value of this Series 1998B Bond shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

"Accreted Value" is defined in the First Supplemental Indenture, as hereafter defined, as an amount equal to the original principal amount of the a Series 1998B Bond on its date of delivery plus an amount of interest which, based on semiannual compounding on each Compounding Date from the date of delivery on the basis of a 360-day year of twelve 30-day months, will produce a yield approximately equal to the yield set forth in Section 203 of the First Supplemental Indenture. Notwithstanding anything in the First Supplemental Indenture to the contrary, the Accreted Value of a Series 1998B Bond to be paid on any date other than a Compounding Date shall be equal to the Accreted Value of such Series 1998B Bond as of the preceding Compounding Date plus a portion of the difference between the Accreted Value of such Series 1998B Bond as of the preceding Compounding Date (or the date of original delivery if the date of computation is before the first Compounding Date) and the Accreted Value of such Series 1998B Bond as of the immediately succeeding Compounding Date, computed based on the assumption that interest accrues during any period in equal daily amounts on a basis of a 360-day year of twelve 30-day months.

Notwithstanding any other provision hereof, this Series 1998B Bond is subject to book-entry form maintained by DTC, and the payment of principal, premium, if any, and interest, the providing of notices and other matters shall be made as described in the Issuer's Letter of Representations to DTC.

This Series 1998B Bond is one of an issue of Pocahontas Parkway Association Route 895 Connector Senior Capital Appreciation Toll Road Revenue Bonds, Series 1998B (the "Series 1998B Bonds"), having an aggregate Accreted Value at maturity of $_____, being issued concurrently with the Issuer's (i) Pocahontas Parkway Association Route 895 Connector Senior Current Interest Toll Road Revenue Bonds, Series 1998A (the "Series 1998A Bonds"), in the principal amount of $_____, (ii) Pocahontas Parkway Association Route 895 Connector First Tier Subordinate Capital Appreciation Toll Road Revenue Bonds, Series 1998C (the "Series 1998C Bonds"), having an aggregate Accreted Value at maturity of $_____, (iii) Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998D (the "Series 1998D Bond"), in the principal amount of $_____, and (iv) Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998E (the "Series 1998E Bond"), in the principal amount of up to $5,000,000, to finance Costs of the Project, as defined in the Indenture, as hereafter defined, including the funding of a debt service reserve fund, and to pay Costs of Issuance, as defined in the Indenture.

The Series 1998B Bonds are issued under the Master Indenture, as supplemented by a First Supplemental Indenture of Trust dated as of July 1, 1998 (the "First Supplemental

Indenture" and, together with the Master Indenture, as amended, the "Indenture"). Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer, the rights of the Owners, as defined in the Indenture, of the Series 1998B Bonds and the terms upon which the Series 1998B Bonds are issued and secured. Additional bonds ranking on parity with or subordinate to the Series 1998B Bonds may be issued on the terms provided in the Indenture.

The Series 1998B Bonds are being issued on a parity in terms of payment of principal, Accreted Value, premium, if any, and interest, as appropriate, with the Series 1998A Bonds and any other Senior Bonds.

The Series 1998B Bonds may not be called for redemption by the Issuer except as provided herein and in the Indenture. Series 1998B Bonds maturing on or before August 15, ____, are not subject to redemption prior to maturity.

Series 1998B Bonds maturing on or after August 15, _____, are subject to redemption prior to maturity at the option of the Issuer, at the direction of the Department, on or after August 15, _____, in whole or in part at any time, in increments of original principal amounts which would have reached an Accreted Value at maturity of $100,000 or any integral multiple thereof, during the following redemption periods upon payment of the following redemption prices (expressed as a percentage of the Accreted Value as of the Redemption Date) determined in accordance with the schedule set forth below:

Redemption Date	Price
On or after August 15, ____ and on or before August 14, ____	%
On or after August 15, ____ and on or before August 14, ____	
On or after August 15, ____ and on or before August 14, ____	

If less than all of the Series 1998B Bonds shall be called for redemption, the maturities to be redeemed and the method of selection shall be determined by the Issuer. If less than all of a maturity of a Series 1998B Bond shall be called for redemption, the particular Series 1998B Bonds or portions of Series 1998B Bonds to be redeemed shall be selected by lot or other random method by the Trustee in such a manner as the Trustee may determine. Each portion of such Series 1998B Bonds that would have reached an Accreted Value at maturity of $100,000 shall be counted as one Series 1998B Bond for such purpose.

If any of the Series 1998B Bonds or portions thereof are called for redemption, the Trustee shall give notice, in the name of the Issuer, of the redemption of such Series 1998B Bonds or portions thereof, by first class mail postage prepaid, not less than 15 days before the Redemption Date, to the Owners of any registered Series 1998B Bond or portions of Series 1998B registered Bonds which are to be redeemed, at their last addresses, if any, appearing on the Register. If, on the Redemption Date, moneys for the redemption of all the Series 1998B Bonds or portions thereof of any like maturity to be redeemed, together with interest to the

Redemption Date, shall be held by the Trustee or Paying Agent, as defined in the Indenture, so as to be available therefor on said date and if notice of redemption shall have been given as provided in the Indenture, then, from and after the Redemption Date interest on the Series 1998B Bonds or portions thereof of such maturity so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the Redemption Date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

No Owner of any Series 1998B Bond shall have any right to institute any suit, action or proceedings at law or in equity for the appointment of a receiver or for any other remedy under the Indenture or by reason thereof, except to the extent and in the circumstances permitted by the Indenture.

The Series 1998B Bonds are issuable as registered Bonds in original principal amounts which at maturity will have an Accreted Value of $100,000 or any integral multiple thereof. Upon surrender for transfer or exchange of this Series 1998B Bond at the principal operations center of the Registrar, together with a written instrument of transfer or written request for exchange, as the case may be, satisfactory to the Registrar duly executed by the Owner or the Owner's duly authorized attorney, the Issuer shall execute and the Trustee or the duly authorized Authenticating Agent, as defined in the Indenture, shall authenticate and deliver Series 1998B Bonds in accordance with the provisions of, and subject to the limitations and conditions contained in, the Indenture, a new Series 1998B Bond or Series 1998B Bonds of the same aggregate principal amount and maturity as the surrendered Series 1998B Bond. For every such transfer of Series 1998B Bonds pursuant to the Indenture, whether temporary or definitive, the Issuer, the Trustee, the Registrar, and any Authenticating Agent may make a charge sufficient to reimburse it or them for any expense, tax, fee or other governmental charge required to be paid with respect to such transfer. In addition for every exchange of Series 1998B Bonds (other than the exchange of temporary Series 1998B Bonds for definitive Series 1998B Bonds), the Issuer, the Trustee, the Registrar, and any Authenticating Agent may make reasonable charges to cover the costs of printing Series 1998B Bonds including any Trustee's, Registrar's, or Authenticating Agent's charges in connection therewith. The payment of such sum or sums shall be made by the Owner requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The Registrar shall not be required to transfer or exchange Series 1998B Bonds for a period of 15 days next preceding the selection of Series 1998B Bonds for redemption or to transfer or exchange any Series 1998B Bonds called for redemption.

The Issuer, the Trustee, and any other Fiduciary, as defined in the Indenture, may deem and treat the person in whose name this Series 1998B Bond shall be registered in the Register as the absolute Owner of this Series 1998B Bond, whether this Series 1998B Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the Accreted Value and Redemption Price of and interest on this Series 1998B Bond and for all other purposes, and all such payments so made to any such Owner or upon the Owner's order shall be valid and effectual to satisfy and discharge the liability upon this Series 1998B Bond to the extent of the sum or sums so paid, and the Issuer, the Trustee, and any other Fiduciary shall not be affected by any notice to the contrary.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Series 1998B Bond have happened, exist and have been performed.

This Series 1998B Bond shall not be valid or entitled to any security or benefit under the Indenture until the Trustee shall have executed the Certificate of Authentication appearing hereon and inserted the date of authentication hereon.

IN WITNESS WHEREOF, Pocahontas Parkway Association has caused this Series 1998B Bond to be signed by its President or such other officer of the Issuer authorized to do so by resolution of the Board by his manual signature and its corporate seal to be impressed thereon and attested to by the manual signature of its Secretary or Assistant Secretary, and this Series 1998B Bond to be dated the date set forth above.

POCAHONTAS PARKWAY ASSOCIATION

By:_____
Joseph R. Jenkins, President

(SEAL)

Attest:

_____
Bruce A. Kay, Secretary

(Form of Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

Date of Authentication:_____

This Series 1998B Bond is one of the Series 1998B Bonds of the issue described in the within-mentioned Indenture.

CRESTAR BANK, Trustee

By:_____
Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sell(s), assign(s) and transfer(s) unto _____

_____

_____

(Please print or typewrite Name and Address
including postal zip code of Transferee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OR TRANSFEREE

the within Bond and all rights thereunder, hereby irrevocably constituting and appointing

_____

_____

_____, Attorney, to transfer said Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed

_____

NOTICE: Signature(s) must be guaranteed by an Eligible Guarantor Institution such as a Commercial Bank, Trust Company, Securities Broker/Dealer, Credit Union, or Savings Association who is a member of a medallion program approved by The Securities Transfer Association, Inc.

EXHIBIT C

FORM OF SERIES 1998C BOND

REGISTERED

ACCRETED VALUE
AT MATURITY

1998C - _____

$_____

POCAHONTAS PARKWAY ASSOCIATION
ROUTE 895 CONNECTOR
FIRST TIER SUBORDINATE CAPITAL
APPRECIATION TOLL ROAD REVENUE BONDS
SERIES 1998C

MATURITY DATE	DATED DATE	CUSIP
August 15, ____	July 1, 1998	_____

REGISTERED OWNER:

ACCRETED VALUE AT MATURITY:

Pocahontas Parkway Association (the "Issuer"), for value received, hereby promises to pay upon surrender hereof at the principal corporate trust office of Crestar Bank, Richmond, Virginia (the "Trustee"), solely from the sources and as herein provided, to the registered Owner hereof, or the registered assigns or legal representatives, the Accreted Value stated above on the maturity date stated above, subject to prior redemption as herein provided. Capitalized terms used herein and not defined shall have the meanings given to such terms in the Master Indenture of Trust dated as of July 1, 1998 (the "Master Indenture"), between the Issuer and the Trustee. THIS BOND SHALL BE A SPECIAL, LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM THE TRUST ESTATE IN ACCORDANCE WITH THE INDENTURE. THE DEPARTMENT'S APPROVAL OF THE ISSUANCE OF THIS BOND AND OF THE DOCUMENTS PERTAINING TO THIS BOND SHALL NOT BE CONSTRUED AS A GUARANTEE OR ENDORSEMENT OF THIS BOND OR THE TRAFFIC AND REVENUE STUDY OR ANY REPRESENTATION, WARRANTY OR OTHER ASSURANCE AS TO THE ABILITY OF THE ISSUER TO PERFORM ITS OBLIGATIONS WITH RESPECT TO THIS BOND OR THE ADEQUACY OF THE TOLL REVENUES TO PROVIDE FOR PAYMENT OF THIS BOND. THIS BOND SHALL NOT BE A DEBT OF THE COMMONWEALTH OF VIRGINIA, THE DEPARTMENT, CTB OR ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE, MORAL OR OTHERWISE, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING

POWER OF THE STATE, THE DEPARTMENT, CTB OR ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND.

Interest hereon shall accrue from the date of this Series 1998C Bond and shall compound semiannually on each February 15 and August 15 (the "Compounding Dates"), beginning August 15, 1998, but shall be payable only at maturity or earlier redemption, as a component of the Accreted Value. The Accreted Value of this Series 1998C Bond shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

"Accreted Value" is defined in the First Supplemental Indenture, as hereafter defined, as an amount equal to the original principal amount of the a Series 1998C Bond on its date of delivery plus an amount of interest which, based on semiannual compounding on each Compounding Date from the date of delivery on the basis of a 360-day year of twelve 30-day months, will produce a yield approximately equal to the yield set forth in Section 203 of the First Supplemental Indenture. Notwithstanding anything in the First Supplemental Indenture to the contrary, the Accreted Value of a Series 1998C Bond to be paid on any date other than a Compounding Date shall be equal to the Accreted Value of such Series 1998C Bond as of the preceding Compounding Date plus a portion of the difference between the Accreted Value of such Series 1998C Bond as of the preceding Compounding Date (or the date of original delivery if the date of computation is before the first Compounding Date) and the Accreted Value of such Series 1998C Bond as of the immediately succeeding Compounding Date, computed based on the assumption that interest accrues during any period in equal daily amounts on a basis of a 360-day year of twelve 30-day months.

Notwithstanding any other provision hereof, this Series 1998C Bond is subject to book-entry form maintained by DTC, and the payment of principal, premium, if any, and interest, the providing of notices and other matters shall be made as described in the Issuer's Letter of Representations to DTC.

This Series 1998C Bond is one of an issue of Pocahontas Parkway Association Route 895 Connector First Tier Subordinate Capital Appreciation Toll Road Revenue Bonds, Series 1998C (the "Series 1998C Bonds"), having an aggregate Accreted Value at maturity of $_____, being issued concurrently with the Issuer's (i) Pocahontas Parkway Association Route 895 Connector Senior Current Interest Toll Road Revenue Bonds, Series 1998A (the "Series 1998A Bonds"), in the principal amount of $_____, (ii) Pocahontas Parkway Association Route 895 Connector Senior Capital Appreciation Toll Road Revenue Bonds, Series 1998B (the "Series 1998B Bonds"), having an aggregate Accreted Value at maturity of $_____, (iii) Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998D (the "Series 1998D Bond"), in the principal amount of $_____, and (iv) Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998E (the "Series 1998E Bond"), in the principal amount of up to $5,000,000, to finance Costs of the Project, as defined in the Master Indenture, including the funding of a debt service reserve fund, and to pay Costs of Issuance, as defined in the Indenture.

The Series 1998C Bonds are issued under the Indenture, as supplemented by a First Supplemental Indenture of Trust dated as of July 1, 1998 (the "First Supplemental Indenture" and, together with the Master Indenture, as amended, the "Indenture"). Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer, the rights of the Owners, as defined in the Indenture, of the Series 1998C Bonds and the terms upon which the Series 1998C Bonds are issued and secured. Capitalized terms used herein and not defined shall have the meanings given such terms in the Indenture. **Additional bonds ranking superior to, on parity with or subordinate to the Series 1998C Bonds may be issued on the terms provided in the Indenture.**

This Series 1998C Bond and the premium, if any, and interest hereon, are subordinate to the Series 1998A Bonds, the Series 1998B Bonds and any other Senior Bonds and will be payable only after all payments of principal, Accreted Value, premium, if any, and interest on the Series 1998A Bonds, the Series 1998B Bonds, and any other Senior Bonds, as appropriate, then due have been paid.

The Series 1998C Bonds may not be called for redemption by the Issuer except as provided herein and in the Indenture. Series 1998C Bonds maturing on or before August 15, ____, are not subject to redemption prior to maturity.

Series 1998C Bonds maturing on or after August 15, ____, are subject to redemption prior to maturity at the option of the Issuer, at the direction of the Department, on or after August 15, ____, in whole or in part at any time, in increments of original principal amounts which would have reached an Accreted Value at maturity of $100,000 or any integral multiple thereof, during the following redemption periods upon payment of the following redemption prices (expressed as a percentage of the Accreted Value as of the Redemption Date) determined in accordance with the schedule set forth below:

Redemption Date	Price
On or after August 15, ____ and on or before August 14, ____	%
On or after August 15, ____ and on or before August 14, ____	
On or after August 15, ____ and on or before August 14, ____	

If less than all of the Series 1998C Bonds shall be called for redemption, the maturities to be redeemed and the method of selection shall be determined by the Issuer. If less than all of a maturity of a Series 1998C Bond shall be called for redemption, the particular Series 1998C Bonds or portions of Series 1998C Bonds to be redeemed shall be selected by lot or other random method by the Trustee in such a manner as the Trustee may determine. Each portion of such Series 1998C Bonds that would have reached an Accreted Value at maturity of $100,000 shall be counted as one Series 1998C Bond for such purpose.

If any of the Series 1998C Bonds or portions thereof are called for redemption, the Trustee shall give notice, in the name of the Issuer, of the redemption of such Series 1998C Bonds or portions thereof, by first class mail postage prepaid, not less than 15 days before the Redemption Date, to the Owners of any registered Series 1998C Bond or portions of Series 1998C registered Bonds which are to be redeemed, at their last addresses, if any, appearing on the Register. If, on the Redemption Date, moneys for the redemption of all the Series 1998C Bonds or portions thereof of any like maturity to be redeemed, together with interest to the Redemption Date, shall be held by the Trustee or Paying Agent, as defined in the Indenture, so as to be available therefor on said date and if notice of redemption shall have been given as provided in the Indenture, then, from and after the Redemption Date interest on the Series 1998C Bonds or portions thereof of such maturity so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the Redemption Date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

No Owner of any Series 1998C Bond shall have any right to institute any suit, action or proceedings at law or in equity for the appointment of a receiver or for any other remedy under the Indenture or by reason thereof, except to the extent and in the circumstances permitted by the Indenture.

The Series 1998C Bonds are issuable as registered Bonds in original principal amounts which at maturity will have an Accreted Value of $100,000 or any integral multiple thereof. Upon surrender for transfer or exchange of this Series 1998C Bond at the principal operations center of the Registrar, together with a written instrument of transfer or written request for exchange, as the case may be, satisfactory to the Registrar duly executed by the Owner or the Owner's duly authorized attorney, the Issuer shall execute and the Trustee or the duly authorized Authenticating Agent, as defined in the Indenture, shall authenticate and deliver Series 1998C Bonds in accordance with the provisions of, and subject to the limitations and conditions contained in, the Indenture, a new Series 1998C Bond or Series 1998C Bonds of the same aggregate principal amount and maturity as the surrendered Series 1998C Bond. For every such transfer of Series 1998C Bonds pursuant to the Indenture, whether temporary or definitive, the Issuer, the Trustee, the Registrar, and any Authenticating Agent may make a charge sufficient to reimburse it or them for any expense, tax, fee or other governmental charge required to be paid with respect to such transfer. In addition for every exchange of Series 1998C Bonds (other than the exchange of temporary Series 1998C Bonds for definitive Series 1998C Bonds), the Issuer, the Trustee, the Registrar, and any Authenticating Agent may make reasonable charges to cover the costs of printing Series 1998C Bonds including any Trustee's, Registrar's, or Authenticating Agent's charges in connection therewith. The payment of such sum or sums shall be made by the Owner requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The Registrar shall not be required to transfer or exchange Series 1998C Bonds for a period of 15 days next preceding the selection of Series 1998C Bonds for redemption or to transfer or exchange any Series 1998C Bonds called for redemption.

The Issuer, the Trustee, and any other Fiduciary, as defined in the Indenture, may deem and treat the person in whose name this Series 1998C Bond shall be registered in the Register

as the absolute Owner of this Series 1998C Bond, whether this Series 1998C Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the Accreted Value and Redemption Price of and interest on this Series 1998C Bond and for all other purposes, and all such payments so made to any such Owner or upon the Owner's order shall be valid and effectual to satisfy and discharge the liability upon this Series 1998C Bond to the extent of the sum or sums so paid, and the Issuer, the Trustee, and any other Fiduciary shall not be affected by any notice to the contrary.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Series 1998C Bond have happened, exist and have been performed.

This Series 1998C Bond shall not be valid or entitled to any security or benefit under the Indenture until the Trustee shall have executed the Certificate of Authentication appearing hereon and inserted the date of authentication hereon.

IN WITNESS WHEREOF, Pocahontas Parkway Association has caused this Series 1998C Bond to be signed by its President or such other officer of the Issuer authorized to do so by resolution of the Board by his manual signature and its corporate seal to be impressed thereon and attested to by the manual signature of its Secretary or Assistant Secretary, and this Series 1998C Bond to be dated the date set forth above.

POCAHONTAS PARKWAY ASSOCIATION

By:_____
Joseph R. Jenkins, President

(SEAL)

Attest:

_____
Bruce A. Kay, Secretary

(Form of Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

Date of Authentication:_____

This Series 1998C Bond is one of the Series 1998C Bonds of the issue described in the within-mentioned Indenture.

CRESTAR BANK, Trustee

By:_____
Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sell(s), assign(s) and transfer(s) unto

_____

_____

_____

(Please print or typewrite Name and Address
including postal zip code of Transferee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OR TRANSFEREE

the within Bond and all rights thereunder, hereby irrevocably constituting and appointing

_____

_____

_____, Attorney, to transfer said Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed

_____

NOTICE: Signature(s) must be guaranteed by an Eligible Guarantor Institution such as a Commercial Bank, Trust Company, Securities Broker/Dealer, Credit Union, or Savings Association who is a member of a medallion program approved by The Securities Transfer Association, Inc.

[EXHIBIT D]

FORM OF SERIES 1998D BOND

REGISTERED | PRINCIPAL AMOUNT

1998D | $_____

POCAHONTAS PARKWAY ASSOCIATION
ROUTE 895 CONNECTOR
SECOND TIER SUBORDINATE TOLL ROAD REVENUE BOND
SERIES 1998D

MATURITY DATE	DATED DATE
August 15, 2028	_____, 1998

REGISTERED OWNER: COMMONWEALTH TRANSPORTATION BOARD

Pocahontas Parkway Association (the "Issuer"), for value received, hereby promises to pay upon surrender hereof at the principal corporate trust office of Crestar Bank, Richmond, Virginia (the "Trustee"), solely from the sources and as herein provided, to the registered Owner hereof, or the registered assigns or legal representatives, the principal sum stated above on the maturity date stated above, subject to prior prepayment as herein provided, and to pay, solely from such sources, interest hereon on the outstanding balance hereof at a rate equal to the Transportation Trust Fund Earnings Rate. Payments hereunder shall be made by wire transfer in accordance with written notice and completed wire instructions by the Owner to the Paying Agent.

"Transportation Trust Fund Earning Rate" shall mean for any month the composite yield during the preceding month on average assets in the Commonwealth of Virginia Transportation Trust Fund as reported in the Department of Treasury "General Account Investment Portfolio-Monthly Average Balances and Yields." The composite yield is determined by dividing the annualized earnings for the month, which includes interest accruals, accretions, amortization and realized gains and losses, by the average asset balances for the month. Interest hereon shall accrue from the date that payments are made from the Series 1998D Bond Proceeds Account on the amount of such payments until paid. In addition, to the extent that a note issued under the SIB Loan Agreement has been exchanged for a portion of this Bond on the Financial Closing Date, the interest hereon shall include interest accrued on such note to such date in the amount of $_____. Capitalized terms used herein and not defined shall have the meanings given in the Master Indenture of Trust dated as of July 1 (the "Master Indenture"), between the Issuer and the Trustee. THIS BOND SHALL BE A SPECIAL, LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM THE TRUST ESTATE IN ACCORDANCE WITH THE INDENTURE. THE DEPARTMENT'S APPROVAL OF THE ISSUANCE OF THIS BOND

AND OF THE DOCUMENTS PERTAINING TO THIS BOND SHALL NOT BE CONSTRUED AS A GUARANTEE OR ENDORSEMENT OF THIS BOND OR THE TRAFFIC AND REVENUE STUDY OR ANY REPRESENTATION, WARRANTY OR OTHER ASSURANCE AS TO THE ABILITY OF THE ISSUER TO PERFORM ITS OBLIGATIONS WITH RESPECT TO THIS BOND OR THE ADEQUACY OF THE TOLL REVENUES TO PROVIDE FOR PAYMENT OF THIS BOND. THIS BOND SHALL NOT BE A DEBT OF THE COMMONWEALTH OF VIRGINIA, THE DEPARTMENT, CTB OR ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE, MORAL OR OTHERWISE, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE, THE DEPARTMENT, CTB OR ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND.

This Series 1998D Bond constitutes the Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998D (the "Series 1998D Bond") being issued concurrently with the Issuer's (i) Pocahontas Parkway Association Route 895 Connector Senior Current Interest Toll Road Revenue Bonds, Series 1998A (the "Series 1998A Bonds"), in the aggregate principal amount of $_____, (ii) Pocahontas Parkway Association Route 895 Connector Senior Capital Appreciation Toll Road Revenue Bonds, Series 1998B (the "Series 1998B Bonds"), in the aggregate Accreted Value at maturity of $_____, (iii) Pocahontas Parkway Association Route 895 Connector First Tier Subordinate Capital Appreciation Toll Road Revenue Bonds, Series 1998C (the "Series 1998C Bonds"), in the aggregate Accreted Value at maturity of $_____, and (iv) Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998E (the "Series 1998E Bond"), in the principal amount of up to $5,000,000, to finance Costs of the Project, as defined in the Indenture, including the funding of a debt service reserve fund, and to pay Costs of Issuance, as defined in the Indenture. **The Series 1998D Bond and the Series 1998E Bond will not be secured by a debt service reserve fund.**

The Series 1998D Bond is issued under the Master Indenture, as supplemented by a First Supplemental Indenture of Trust dated as of July 1, 1998 (the "First Supplemental Indenture" and, together with the Master Indenture, as amended, the "Indenture"). Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer, the rights of the Owners, as defined in the Indenture, of the Series 1998D Bond and the terms upon which the Series 1998D Bond is issued and secured. **Additional bonds ranking superior to or on parity with the Series 1998D Bond may be issued on the terms provided in the Indenture.**

The Series 1998D Bond is being issued on a parity in terms of payment of principal, premium, if any, and interest with the Series 1998E Bond.

This Series 1998D Bond and the premium, if any, and interest hereon, are subordinate to the Series 1998A Bonds, the Series 1998B Bonds and other Senior Bonds and the Series 1998C Bonds and other First Tier Subordinate Bonds and will be payable only after all payments of principal, Accreted Value, premium, if any, and interest on the Series

1998A Bonds, the Series 1998B Bonds and the Series 1998C Bonds, and any other such Bonds, as appropriate, then due have been paid.

This Series 1998D Bond shall be subject to prepayment at the option of the Issuer, in whole or in part at any time, without premium.

This Series 1998D Bond is subject to mandatory prepayment from amounts in the Second Tier Subordinate Debt Service Account to be paid to the Owner hereof pursuant to the Indenture after payment of accrued interest hereon.

Prepayments shall be noted on the Schedule attached hereto.

Amounts in the Second Tier Subordinate Debt Service Account shall be used in accordance with the Indenture to pay first interest accrued on this Series 1998D Bond and then to pay prepayments of principal.

No Owner of any Series 1998D Bond shall have any right to institute any suit, action or proceedings at law or in equity for the appointment of a receiver or for any other remedy under the Indenture or by reason thereof, except to the extent and in the circumstances permitted by the Indenture.

The Issuer, the Trustee, and any other Fiduciary, as defined in the Indenture, may deem and treat the person in whose name this Series 1998D Bond shall be registered in the Register as the absolute Owner of this Series 1998D Bond, whether this Series 1998D Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price of and interest on this Series 1998D Bond and for all other purposes, and all such payments so made to any such Owner or upon the Owner's order shall be valid and effectual to satisfy and discharge the liability upon this Series 1998D Bond to the extent of the sum or sums so paid, and the Issuer, the Trustee, and any other Fiduciary shall not be affected by any notice to the contrary. Notwithstanding the foregoing, interest on this Series 1998D Bond, other than interest payable at maturity or on a Redemption Date, shall be paid to the Person, as defined in the Indenture, in whose name this Series 1998D Bond is registered on the Register at the close of business on the Record Date for such Interest Payment Date.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Series 1998D Bond have happened, exist and have been performed.

This Series 1998D Bond shall not be valid or entitled to any security or benefit under the Indenture until the Trustee shall have executed the Certificate of Authentication appearing hereon and inserted the date of authentication hereon.

IN WITNESS WHEREOF, Pocahontas Parkway Association has caused this Series 1998D Bond to be signed by its President or such other officer of the Issuer authorized to do so by resolution of the Board by his manual signature and its corporate seal to be impressed thereon and attested to by the manual signature of its Secretary or Assistant Secretary, and this Series 1998D Bond to be dated the date set forth above.

POCAHONTAS PARKWAY ASSOCIATION

By:_____
Joseph R. Jenkins, President

(SEAL)

Attest:

_____
Bruce A. Kay, Secretary

(Form of Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

Date of Authentication:_____

This Series 1998D Bond is the Series 1998D Bond described in the within-mentioned Indenture.

CRESTAR BANK, Trustee

By:_____
Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sell(s), assign(s) and transfer(s) unto _____

_____

_____

(Please print or typewrite Name and Address
including postal zip code of Transferee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OR TRANSFEREE

the within Bond and all rights thereunder, hereby irrevocably constituting and appointing

_____

_____

_____, Attorney, to transfer said Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed

_____

NOTICE: Signature(s) must be guaranteed by an Eligible Guarantor Institution such as a Commercial Bank, Trust Company, Securities Broker/Dealer, Credit Union, or Savings Association who is a member of a medallion program approved by The Securities Transfer Association, Inc.

[EXHIBIT E]

FORM OF SERIES 1998E BOND

REGISTERED	PRINCIPAL AMOUNT*
1998E	$5,000,000

POCAHONTAS PARKWAY ASSOCIATION
ROUTE 895 CONNECTOR
SECOND TIER SUBORDINATE TOLL ROAD REVENUE BOND
SERIES 1998E

INTEREST RATE	MATURITY DATE	DATED DATE
_____%	August 15, 2028	_____ 1, 1998

REGISTERED OWNER: FD/MK LIMITED LIABILITY COMPANY

* Advances outstanding hereunder from time to time shall be as set forth on the Schedule of Advances and Prepayments, not to exceed $5,000,000 at any one time outstanding.

Pocahontas Parkway Association (the "Issuer"), for value received, hereby promises to pay upon surrender hereof at the principal corporate trust office of Crestar Bank, Richmond, Virginia (the "Trustee"), solely from the sources and as herein provided, to the registered Owner hereof, or the registered assigns or legal representatives, the principal sum stated above on the maturity date stated above, subject to prior prepayment as herein provided, and to pay, solely from such sources, interest hereon from the applicable date of advance at the rate of 12% per annum, compounded semi-annually on each February 15, and August 15, if in the opinion of Bond Counsel, such interest is includable in gross income for federal income tax purposes, or 11% per annum, compounded semi-annually on each February 15, and August 15, if in the opinion of Bond Counsel, such interest is not includable in gross income for federal income tax purposes. Capitalized terms used herein but not defined shall have the meanings given to such terms in the Master Indenture of Trust dated as of July 1, 1998 (the "Master Indenture") between the Issuer and the Trustee. THIS BOND SHALL BE A SPECIAL, LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM THE TRUST ESTATE IN ACCORDANCE WITH THE INDENTURE. THE DEPARTMENT'S APPROVAL OF THE ISSUANCE OF THIS BOND AND OF THE DOCUMENTS PERTAINING TO THIS BOND SHALL NOT BE CONSTRUED AS A GUARANTEE OR ENDORSEMENT OF THIS BOND OR THE TRAFFIC AND REVENUE STUDY OR ANY REPRESENTATION, WARRANTY OR OTHER ASSURANCE AS TO THE ABILITY OF THE ISSUER TO PERFORM ITS OBLIGATIONS WITH RESPECT TO THIS BOND OR THE ADEQUACY OF THE TOLL REVENUES TO PROVIDE FOR PAYMENT OF THIS BOND. THIS BOND SHALL NOT BE A DEBT OF THE COMMONWEALTH OF VIRGINIA, THE DEPARTMENT, CTB OR

ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE, MORAL OR OTHERWISE, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE, THE DEPARTMENT, CTB OR ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND.

This Series 1998E Bond constitutes the Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998E (the "Series 1998E Bond") being issued concurrently with the Issuer's (i) Pocahontas Parkway Association Route 895 Connector Senior Current Interest Toll Road Revenue Bonds, Series 1998A (the "Series 1998A Bonds"), in the aggregate principal amount of $_____, (ii) Pocahontas Parkway Association Route 895 Connector Senior Capital Appreciation Toll Road Revenue Bonds, Series 1998B (the "Series 1998B Bonds"), in the aggregate Accreted Value at maturity of $_____, (iii) Pocahontas Parkway Association Route 895 Connector First Tier Subordinate Capital Appreciation Toll Road Revenue Bonds, Series 1998C (the "Series 1998C Bonds"), in the aggregate Accreted Value at maturity of $_____, and (iv) Pocahontas Parkway Association Route 895 Connector Second Tier Subordinate Toll Road Revenue Bond, Series 1998D (the "Series 1998D Bond"), in the principal amount of $_____, to finance Costs of the Project, as defined in the Indenture, including the funding of a debt service reserve fund, and to pay Costs of Issuance, as defined in the Indenture. **The Series 1998E Bond and the Series 1998D Bond will not be secured by a debt service reserve fund.**

The Series 1998E Bond is issued under the Master Indenture, as supplemented by a First Supplemental Indenture of Trust dated as of July 1, 1998 (the "First Supplemental Indenture" and, together with the Master Indenture, as amended, the "Indenture"). Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer, the rights of the Owners, as defined in the Indenture, of the Series 1998E Bond and the terms upon which the Series 1998E Bond is issued and secured. **Additional bonds ranking superior to or on parity with the Series 1998E Bond may be issued on the terms provided in the Indenture.**

The Series 1998E Bond is being issued on a parity in terms of payment of principal, premium, if any, and interest with the Series 1998D Bond.

This Series 1998E Bond and the premium, if any, and interest hereon, are subordinate to the Series 1998A Bonds, the Series 1998B Bonds and other Senior Bonds and the Series 1998C Bonds and other First Tier Subordinate Bonds and will be payable only after all payments of principal, Accreted Value, premium, if any, and interest on the Series 1998A Bonds, the Series 1998B Bonds and the Series 1998C Bonds, and any other such Bonds, as appropriate, then due have been paid.

This Series 1998E Bond shall be subject to prepayment at the option of the Issuer in whole or in part at any time, without premium. This Series 1998E Bond is subject to mandatory prepayment from amounts in the Second Tier Subordinate Debt Service Account to be paid to the Owner hereof pursuant to the Indenture after payment of accrued interest hereon.

Advances and prepayments shall be noted on the Schedule attached hereto.

Amounts in the Second Tier Subordinate Debt Service Account shall be used in accordance with the Indenture to pay first interest accrued on this Series 1998E Bond and then prepayments of principal.

No Owner of any Series 1998E Bond shall have any right to institute any suit, action or proceedings at law or in equity for the appointment of a receiver or for any other remedy under the Indenture or by reason thereof, except to the extent and in the circumstances permitted by the Indenture.

The Issuer, the Trustee, and any other Fiduciary, as defined in the Indenture, may deem and treat the person in whose name this Series 1998E Bond shall be registered in the Register as the absolute Owner of this Series 1998E Bond, whether this Series 1998E Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price of and interest on this Series 1998E Bond and for all other purposes, and all such payments so made to any such Owner or upon the Owner's order shall be valid and effectual to satisfy and discharge the liability upon this Series 1998E Bond to the extent of the sum or sums so paid, and the Issuer, the Trustee, and any other Fiduciary shall not be affected by any notice to the contrary. Notwithstanding the foregoing, interest on this Series 1998E Bond, other than interest payable at maturity or on a Redemption Date, shall be paid to the Person, as defined in the Indenture, in whose name this Series 1998E Bond is registered on the Register at the close of business on the Record Date for such Interest Payment Date.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Series 1998E Bond have happened, exist and have been performed.

This Series 1998E Bond shall not be valid or entitled to any security or benefit under the Indenture until the Trustee shall have executed the Certificate of Authentication appearing hereon and inserted the date of authentication hereon.

IN WITNESS WHEREOF, Pocahontas Parkway Association has caused this Series 1998E Bond to be signed by its President or such other officer of the Issuer authorized to do so by resolution of the Board by his manual signature and its corporate seal to be impressed thereon and attested to by the manual signature of its Secretary or Assistant Secretary, and this Series 1998E Bond to be dated the date set forth above.

POCAHONTAS PARKWAY ASSOCIATION

By:_____
Joseph R. Jenkins, President

(SEAL)

Attest:

_____
Bruce A. Kay, Secretary

(Form of Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

Date of Authentication:_____

This Series 1998E Bond is the Series 1998E Bond described in the within-mentioned Indenture.

CRESTAR BANK, Trustee

By:_____
Authorized Officer

Schedule of Advances and Prepayments

Date	Advance	Prepayment	Balance	Noteholder Signature

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sell(s), assign(s) and transfer(s) unto _____

_____

_____

(Please print or typewrite Name and Address
including postal zip code of Transferee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OR TRANSFEREE

the within Bond and all rights thereunder, hereby irrevocably constituting and appointing

_____

_____

_____, Attorney, to transfer said Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed

_____

NOTICE: Signature(s) must be guaranteed by an Eligible Guarantor Institution such as a Commercial Bank, Trust Company, Securities Broker/Dealer, Credit Union, or Savings Association who is a member of a medallion program approved by The Securities Transfer Association, Inc.

EXHIBIT H

SIB LOAN AGREEMENT

SIB LOAN AGREEMENT

This **SIB LOAN AGREEMENT** (the "Agreement") is made and entered into as of June 3, 1998, by and among the **COMMONWEALTH TRANSPORTATION BOARD**, a state board of the Commonwealth of Virginia affiliated with the Department of Transportation (the "CTB"), whose address is 1401 East Broad Street, Richmond, Virginia 23219, and **POCAHONTAS PARKWAY ASSOCIATION**, a Virginia non-stock, nonprofit corporation (the "Association"), whose address is c/o Williams, Mullen, Christian & Dobbins, Two James Center, 1021 East Cary Street, Richmond, Virginia 23219.

WITNESSETH:

WHEREAS, on March 25, 1995, the Governor of the State signed into law, effective July 1, 1995, the Public-Private Transportation Act (as amended, the "PPTA"); and

WHEREAS, in enacting the PPTA, the State General Assembly found and declared, among other things, that:

(i) There is a public need for timely acquisition or construction of and improvements to transportation facilities within the State that are compatible with state and local transportation plans;

(ii) Such public need may not be wholly satisfied by existing ways in which transportation facilities are acquired, constructed or improved; and

(iii) Authorizing private entities to acquire, construct, improve, maintain, and/or operate one or more transportation facilities may result in the availability of such transportation facilities to the public in a more timely or less costly fashion, thereby serving the public safety and welfare; and

WHEREAS, the PPTA grants the Virginia Department of Transportation (the "Department") the authority to allow private entities to construct and/or operate qualifying transportation facilities if the Department determines there is a need for the facilities and private involvement would provide the facilities to the public in a timely and cost-effective fashion; and

WHEREAS, the CTB is authorized by Code of Virginia § 33.1-23.03:4 to make allocations from funds in the Toll Facilities Revolving Account of the Transportation Trust Fund to make a loan to a private operator to pay any cost of a qualifying transportation facility pursuant to the terms of a comprehensive agreement entered into under the PPTA between a responsible public entity and a private operator; and

WHEREAS, on September 27, 1996, the CTB, the Department, the Federal Highway Administration and the Federal Transit Administration entered into a Cooperative Agreement providing for the establishment of the Toll Facilities Revolving Account as a State Infrastructure Bank ("SIB") pursuant to section 350 of the National Highway System Designation Act of 1995 ("NHS Act"), Public Law 104-59, 23 U.S.C. § 101 note, dedicated solely to

providing loans and other forms of financial assistance consistent with the NHS Act and as permitted under State law; and

WHEREAS, pursuant to the PPTA, the Department and FD/MK Limited Liability Company ("FD/MK") have entered into a Comprehensive Agreement to Develop and Operate Route 895 Connector dated as of June 3, 1998 (as amended, the "Comprehensive Agreement"), providing for the design, acquisition, construction, financing, operation and maintenance of the Route 895 Connector as a limited access highway (the "Project"); and

WHEREAS, pursuant to Section 6.1(a) of the Comprehensive Agreement, FD/MK and the Association concurrently herewith have executed a Project Financing, Assignment and Assumption Agreement (the "Project Financing Agreement") pursuant to which the Association has agreed to assist FD/MK in the financing of the Project by, among other things, entering into the Indenture (defined hereinafter) pursuant to which the Association will issue bonds and other obligations payable from revenues of the Project; and

WHEREAS, under the Project Financing Agreement, FD/MK has assigned to the Association all the rights of, and the Association has assumed, all of the duties and obligations of, FD/MK as the Operator under the Comprehensive Agreement for the period on and after the Transition Date; and

WHEREAS, on the Financial Closing Date, the Association and Crestar Bank, a Virginia banking corporation, as trustee (the "Trustee") will execute and deliver a Master Indenture of Trust and First Supplemental Indenture of Trust (collectively, the "Indenture"), pursuant to which the Association will issue approximately $315,000,000 aggregate principal amount of its Series 1998 A and B Senior Bonds, and approximately $33,000,000 aggregate principal amount of its Series 1998 C First Tier Subordinate Bonds for the purpose of financing part of the costs of the Project; and

WHEREAS, to assist in financing certain costs of the Project, the CTB shall authorize a loan to be made from the Federal Subaccount in the Toll Facilities Revolving Account in the maximum principal amount of $18,000,000, of which up to $1,500,000 may be drawn prior to the Financial Closing Date and the remainder up to the amount indicated in the financial plan or financial proformas set forth in the Official Statement issued in connection with the offering of the Series 1998A Senior Bonds may be drawn on and after the Financial Closing Date, subject to the terms of this Agreement and the Indenture.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto DO HEREBY AGREE as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. All capitalized, undefined terms used herein shall have the same meanings as used in Exhibit A hereto.

Section 1.2 Rules of Interpretation.

(a) 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.

(b) 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. 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 stated otherwise, all references to Articles and Sections refer to the Articles and Sections set forth in this Agreement. Unless otherwise stated in this Agreement or the other Project Agreements, words which have well-known technical or construction industry meanings are used in this Agreement or the other Project Agreements in accordance with such recognized meaning. All references to a subsection "above" or "below" refer to the denoted subsection within the Section in which the reference appears.

(c) 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.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of the Association. The Association represents and warrants to the CTB that each of the representations and warranties of the Association set forth in Section 15.3 of the Comprehensive Agreement are true and correct on and as of the date hereof.

ARTICLE III

SIB LOAN

Section 3.1 SIB Loan. The CTB hereby agrees, upon the terms and conditions contained in this Agreement and the Indenture, to authorize a loan (the "SIB Loan") to be made to the Association from funds deposited in the Federal Subaccount of the Toll Facilities Revolving Account in the Transportation Trust Fund in the maximum principal amount of $18,000,000 for purposes of paying certain costs of the Project described in Section 3.3. Prior to the Financial Closing Date an amount not to exceed $1,500,000 (the "Initial SIB Loan") may be drawn to finance the cost of design work incurred under the Design-Build Contract. The Initial SIB Loan shall be evidenced by a Note in the form attached as Exhibit B, and interest shall accrue on the amount of any advance of the Initial SIB Loan from the date of such advance at the Transportation Trust Fund Earnings Rate, compounded semiannually. On the Financing Closing Date, the Note shall be exchanged for a Series 1998D Second Tier Subordinate Bond (the "SIB Bond") issued by the Association and authenticated by the Trustee under the Indenture. Subject to Section 3.4(b), on the Financial Closing Date an amount equal to the remaining undrawn amount of the SIB Loan shall be transferred to the Trustee for deposit in the Series 1998D Bond Proceeds Account of the Construction Fund. On and after the Financial Closing Date, an advance of the SIB Loan (other than advances of the Initial SIB Loan) shall be deemed to be made, and interest on such advance shall accrue from the date of any disbursement from the Series 1998D Bond Proceeds Account. The SIB Bond shall have a final maturity not later than December 31, 2028, and shall bear interest at the Transportation Trust Fund Earnings Rate, compounded semiannually.

Section 3.2 Repayment. The principal of the SIB Bond and accrued interest thereon shall, upon the election of the Department made pursuant to Subsection 4 of Section 503 of the Indenture, be subject to mandatory prepayment from funds transferred to the Department Capital Cost Savings Account pursuant to subsections 4 and 6 of Section 503 of the Indenture. The remaining principal amount of the SIB Bond and accrued interest thereon shall be payable from the Revenues of the Project, to the extent available, in the order of priority described in Section 505 of the Indenture for Second Tier Subordinate Bonds. Repayment shall commence not later than five (5) years after the Final Acceptance Date.

Section 3.3 Use of Proceeds. Proceeds of the SIB Loan shall only be used for payment of costs of (1) right-of-way acquisition and relocation, (2) utility relocation, (3) preliminary design and engineering, (4) costs of promoting, marketing and advertising the Project and its opening to the public incurred prior to the commencement of revenue operations or (5) any other costs approved by the Department that will not cause the Project to be subject to requirements applicable to Federal - aid construction contracts under U.S.C. Title 23. There shall be reserved from the proceeds of the SIB Loan and maintained in a subaccount under the Indenture the sum of $400,000 to be used solely for the costs described under clause (4) above, except to the extent the Department in its sole discretion may authorize in writing use of any of such reserved amount for other costs described above.

Section 3.4 Conditions Precedent to Disbursement of Loan Proceeds.

(a) CTB shall have no obligation to authorize any disbursement of proceeds of the Initial SIB Loan unless FD/MK shall have satisfied all the conditions precedent and requirements for draws set forth in Sections 3.1 and 14.2 of the Design-Build Contract.

(b) The CTB shall have no obligation to transfer proceeds of the SIB Loan to the Trustee on the Financial Closing Date unless the following conditions have been satisfied on or before the Financial Closing Date:

(i) Association shall have issued the Series 1998A and B Senior Bonds and the Series 1998C First Tier Subordinate Bonds the proceeds of which, together with other moneys available to Association are sufficient to pay all costs of financing, planning, design, construction and testing of the Project as determined in accordance with Section 6.2(e)(i) of the Comprehensive Agreement;

(ii) all conditions precedent to the first advance of proceeds of the Bonds set forth in the Indenture shall have been satisfied;

(iii) FD/MK shall have satisfied all the conditions set forth in Sections 6.2(e) of the Comprehensive Agreement;

(iv) all representations and warranties of Association set forth in this Agreement and the Comprehensive Agreement shall be true and correct on the Financial Closing Date as if made on such date;

(v) Association shall have delivered to the CTB, in form and substance reasonably satisfactory to the CTB's counsel, written opinions of counsel to Association, dated the Financial Closing Date, as to matters set forth in Section 15.3 of the Comprehensive Agreement, together with letters addressed to the CTB from such counsel that the CTB may rely on all opinions delivered by them to any party other than the CTB in connection with the issuance of Bonds under the Indenture;

(vi) Each of FD/MK and Association shall have delivered to the CTB, in form and substance reasonably satisfactory thereto, a copy of resolutions and other authorizations, certified by the appropriate officers of FD/MK and Association, respectively, as being in full force and effect on the Financial Closing Date, authorizing the execution, delivery and performance of this Agreement, the Comprehensive Agreement and all other Project Agreements to which it is a party;

(vii) Each of FD/MK and Association shall have delivered to the CTB, in form and substance reasonably satisfactory thereto, certificates signed by the appropriate officer of FD/MK and Association, respectively, as to the incumbency of the person or persons authorized to execute and deliver this Agreement, the Comprehensive Agreement and all other Project Agreements to which it is a party;

(viii) no action, proceeding or investigation shall have been instituted or threatened, nor shall any order, judgment or decree have been issued or proposed to be issued by any government to set aside, restrain, enjoin or prevent the consummation of any transaction contemplated by this Agreement, the Comprehensive Agreement or any other Project Agreement;

(ix) no material adverse change shall have occurred in the consolidated assets, liabilities, operations or financial condition of FD/MK, the Association or any other party to a Project Agreement, other than as resulting from the issuance of the Bonds or other Project Debt as contemplated by the Comprehensive Agreement and this Agreement;

(x) as of the Financial Closing Date, there shall exist no event of default and no condition, event or act which, with the giving of notice or lapse of time, or both, would constitute an event of default under this Agreement or any other Project Agreement;

(xi) The CTB shall have received evidence satisfactory to it of the taking of all actions and the delivery of all of the opinions, schedules, certificates, insurance policies, bonds, authorizing resolutions, financial statements and other documents and papers required to be delivered to the underwriter, trustee or credit facility provider in connection with the issuance of the Bonds and any other project debt; and

(xii) The CTB, Association and FD/MK shall have executed and delivered the Contractor Loan Agreement, and Fluor Corporation and Morrison Knudsen Corporation shall have executed and delivered the Completion Guaranty and the Guaranty of Contractor Loan Agreement.

(c) The Trustee shall not be authorized to make any disbursement of moneys in the Series 1998D Bond Proceeds Account unless (i) on the date of such payment, Association and FD/MK shall have delivered to the Department and the Trustee, as appropriate, a Draw Request and Certificate with respect to such payment or disbursement in the form set forth in Exhibit 1 to the Master Indenture; and (ii) on the date of such draw, there exists no default and no condition, event or act which, with the giving of notice or lapse of time, or both, would constitute an event of default under this Agreement or the Indenture.

Section 3.5 Not a Debt of the United States or the Commonwealth. In no event shall this Agreement or the SIB Loan be deemed to constitute a commitment, guarantee or obligation of the United States. In no event shall this Agreement or the SIB Loan be deemed a debt of the State, the CTB, the Department or any other agency, instrumentality or political subdivision of the State. Neither this Agreement nor the SIB Loan shall constitute or be deemed or interpreted to be a public debt within the meaning of Article X of the Virginia Constitution.

Section 3.6 Restriction on Transferability. The Series 1998D Second Tier Subordinate Bond has not been registered, and has been offered and sold in reliance upon an exemption from registration under the Securities Act of 1933, as amended (the "Securities Act"), and the securities laws of the Commonwealth of Virginia. Such Bond may not be offered or resold by the holder thereof unless registered under the Securities Act and any applicable

securities laws of the Commonwealth of Virginia, or unless, in the opinion of counsel to the Department, an exemption from the registration requirements is available.

ARTICLE IV

COVENANTS

Section 4.1. Compliance with Federal Requirements. The Association hereby covenants and agrees that so long as the SIB Bond is outstanding:

(a) The design, construction and operation of the Project will comply with all Federal requirements which generally apply to projects under Title 23 to the extent applicable to the loan of federal funds under this Agreement for the purposes set forth in Section 3.3; and

(b) The Association shall maintain or cause to be maintained proper books of records and account in accordance with Generally Accepted Accounting Principles.

Section 4.2 Agreement to Repay; Obligations Unconditional. The Association covenants and agrees to repay the SIB Loan at the times and in the manner required by the SIB Bond, this Agreement and the Indenture, solely from funds available for such purpose under provisions of the Indenture. The obligation of the Association to make the payments required in Section 3.2 and to perform and observe the other agreements contained herein shall be absolute and unconditional and shall not be subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach by the CTB, the Department or Trustee of any obligation to the Association, whether hereunder or otherwise, or out of any indebtedness or liability at any time owing to the Association by the CTB, the Department or the Trustee, and, until such time as the principal of, premium, if any, and interest on the SIB Bond shall have been fully paid or provision of the payment thereof shall have been made in accordance with the Indenture, the Association (i) will not suspend or discontinue any payments provided for in Section 3.2, (ii) will perform and observe all other agreements contained in this Agreement and (iii) will not terminate this Agreement or any other Project Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any act or circumstance that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, the taking by eminent domain of title to or temporary use of any or all of the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either thereof or any failure of the CTB, the Department or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement.

Section 4.3 Compliance with the Indenture. The Association agrees that so long as the SIB Bond remains outstanding it will comply with all the terms of the Indenture.

Section 4.4 Reporting. The Association will furnish to the CTB copies of all reports and other information furnished to or received from the Trustee pursuant to the terms of the Indenture.

ARTICLE V

DEFAULTS AND REMEDIES

Section 5.1. Defaults and Remedies.

(a) Each of the following shall constitute a default by Association under this Agreement: (i) an "Event of Default" as defined in Section 902 of the Indenture; (ii) failure by the Association in the performance or observance of any agreements or conditions on its part contained in this Agreement, and the continuance of such failure for a period of 30 days after written notice thereof by the CTB or the Department to the Association, or (iii) the termination of the Comprehensive Agreement by the Department (except any termination as to FD/MK's rights only under 16.3(a) or 17.3(c) thereof) or (iv) the occurrence and continuance of an Association Default under Section 17.4 of the Comprehensive Agreement.

(b) Upon the occurrence and during the continuation of a default under this Agreement, the CTB shall have all the rights and remedies afforded the holder of the Series 1998D Second Tier Subordinate Bond under the Indenture, and any obligation of CTB to authorize a loan to be made under this Agreement shall be suspended unless and until the default is fully cured, and shall terminate if and when the Department terminates Association's rights under the Comprehensive Agreement.

ARTICLE VI

MISCELLANEOUS

Section 6.1. Term of the Agreement. This Agreement shall remain in full force and effect from the date hereof to and including such time as the SIB Bond shall have been fully paid and all other obligations due to the CTB hereunder shall have been paid or satisfied.

Section 6.2. Notices.

(a) Whenever under the provisions of this Agreement it shall be necessary or desirable for one party to serve any notice, request, demand, report or other communication on another party, the same shall be in writing and shall not be effective for any purpose unless and until actually received by the addressee or unless served:

(i) personally,

(ii) by independent, reputable, overnight commercial courier,

(iii) by facsimile transmission:

(A) where the transmitting party includes a cover sheet identifying the name, location and identity of the transmitting party, the phone number of the transmitting device, the date and time of transmission and the number of pages transmitted (including the cover page),

(B) where the transmitting device or receiving device records verification of receipt and the date and time of transmission receipt and the phone number of the other device, and

(C) where the facsimile transmission is immediately followed by service of the original of the subject item in the manner provided in subsections (a)(i), (ii) or (iv) hereof, or

(iv) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to Association:	Pocahontas Parkway Association c/o Williams, Mullen, Christian & Dobbins Two James Center 1021 East Cary Street Richmond, Virginia 23219 Attn: Ralph L. "Bill" Axselle, Esq. Fax: (804) 783-6507
With a copy to:	R. Hart Lee, Esq. Williams, Mullen, Christian & Dobbins Two James Center 1021 East Cary Street Richmond, Virginia 23219 Fax: (804) 783-6507
If to the Commonwealth Transportation Board:	Virginia Department of Transportation 1401 East Broad Street Richmond, Virginia 23219 Attn: Commissioner Fax: (804) 786-6250
With a copy to:	James F. Hayes, Esq. Senior Assistant Attorney General 900 E. Main Street Richmond, Virginia 23219 Fax: (804) 786-9136
And to:	Geoffrey S. Yarema, Esq. Nossaman, Guthner, Knox & Elliott, LLP 445 S. Figueroa Street, 31st Floor Los Angeles, California 90071-6302 Fax: (213) 612-7801

(b) Any party may, from time to time, by notice in writing served upon the other party as aforesaid, designate an additional and/or a different mailing address in Virginia or an additional and/or a different person to whom all such notices, requests, demands, reports and communications are thereafter to be addressed. Any notice, request, demand, report or other communication served personally shall be deemed delivered upon receipt, if served by mail or independent courier shall be deemed delivered on the date of receipt as shown by the addressee's registry or certification receipt or on the date receipt at the appropriate address is refused, as shown on the records or manifest of the U.S. Postal Service or independent courier, and if served by facsimile transmission shall be deemed delivered on the date of receipt as shown on the received facsimile (provided the original is thereafter delivered as aforesaid).

Section 6.3. Assignment. Association may not assign, convey, transfer, pledge, mortgage or otherwise encumber all or part of its rights or interests in or to this Agreement, except to the Trustee pursuant to the Indenture.

Section 6.4. Limitation on Association Liability. The obligations of the Association under this Agreement are limited obligations, payable solely from the assets of the Association; and recourse against the Association shall be limited to such assets. In no event shall any of the Association's directors, officers, agents, employees or representatives be personally responsible for performing or paying any obligations of the Association hereunder, and no recourse shall be had against any of the Association's directors, officers, agents, employees or representatives, except as a result of his or her fraud, intentional misrepresentation, willful misconduct or knowing violation of criminal law.

Section 6.5 Relationship to Comprehensive Agreement. Nothing in this Agreement shall be construed as superseding or having any effect upon the Comprehensive Agreement or the rights, duties and obligations of Association and the other parties thereto with respect to each other established therein, except as otherwise provided in the Comprehensive Agreement.

Section 6.6. Time. Time is of the essence of this Agreement.

Section 6.7 Binding Effect. Subject to Section 6.3, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

Section 6.8 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 6.9 No Third Party Beneficiaries. Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligation of any of the parties to, any person that is not a party to this Agreement.

Section 6.10 Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia applicable to contracts executed and to be performed within Virginia. Venue for any legal action arising out of this Agreement shall lie in the Circuit Court of the City of Richmond, Virginia, Division I.

Section 6.11 Counterparts. This Agreement 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 agreement.

Section 6.12 Amendments. This Agreement shall not be modified, amended, canceled or revoked without the prior written consent of the Association, the CTB and, until the Indenture has been discharged in accordance with its terms, the Trustee.

Section 6.13 Entire Agreement. This Agreement and other Project Agreements constitute the entire and exclusive agreement between the parties relating to the specific matters covered herein and therein. All prior or contemporaneous verbal or written agreements, understandings, representations and/or practices relative to the foregoing are hereby superseded, revoked and rendered ineffective for any purpose.

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executive this Agreement on the date first written above.

COMMONWEALTH TRANSPORTATION BOARD

By: David R. Gehr
David R. Gehr
Commonwealth Transportation Commissioner

Legal Review:

By: J F Hayes
James F. Hayes, Esq.
Senior Assistant Attorney General

Fiscal Review:

By: Gregory A. Whirley
Gregory A. Whirley, Sr.
Controller

POCAHONTAS PARKWAY ASSOCIATION

By: J. R. Jenkins
Joseph R. Jenkins
President and Treasurer

EXHIBIT I

CONTRACTOR LOAN AGREEMENT

CONTRACTOR LOAN AGREEMENT

This **CONTRACTOR LOAN AGREEMENT** is made and entered into as of July 1, 1998, by and among **FD/MK LIMITED LIABILITY COMPANY,** a Delaware limited liability company ("FD/MK"), **POCAHONTAS PARKWAY ASSOCIATION,** a Virginia nonstock, nonprofit corporation (the "Association"), and **CRESTAR BANK,** a Virginia banking corporation, not in its individual capacity but solely as trustee under the Indenture, as defined below (the "Trustee").

W I T N E S S E T H:

WHEREAS, pursuant to the Public-Private Transportation Act of 1995, Virginia Code § 56-556 et seq. (as amended, the "PPTA"), the Virginia Department of Transportation (the "Department") and FD/MK have entered into a Comprehensive Agreement to Develop and Operate Route 895 Connector dated as of June 3, 1998 (as amended from time to time, the "Comprehensive Agreement"), providing for the design, acquisition, construction, financing, operation and maintenance of the Route 895 Connector ("Pocahontas Parkway") as a limited access highway (the "Project"); and

WHEREAS, pursuant to Section 6.1(a) of the Comprehensive Agreement, FD/MK, the Association and the Department have entered into a Project Financing, Assignment and Assumption Agreement (the "Project Financing Agreement") pursuant to which the Association has agreed to assist FD/MK in the financing of the Project by, among other things, entering into the Indenture (defined below) pursuant to which the Authority will issue its Bonds secured by Revenues arising from the Project; and

WHEREAS, under the Project Financing Agreement, FD/MK has assigned to the Association, and the Association has assumed, all of the rights, duties and obligations of FD/MK as the statutory "operator" under the Comprehensive Agreement for the period from and after the Transition Date; and

WHEREAS, concurrently with the execution and delivery of this Agreement, the Association and the Trustee will enter into a Master Indenture of Trust (the "Master Indenture") and the First Supplemental Indenture thereto (as amended and supplemented from time to time, the "Indenture"), pursuant to which the Association will issue its Bonds, initially consisting of its Series 1998A Senior Bonds, Series 1998B Senior Bonds, Series 1998C First Tier Subordinate Bonds, Series 1998D Second Tier Subordinate Bond and Series 1998E Second Tier Subordinate Bond, all for the purpose of financing certain Costs of the Project; and

WHEREAS, the Commonwealth Transportation Board (the "CTB") and the Association have entered into a SIB Loan Agreement (the "SIB Loan Agreement") pursuant to which the CTB has agreed to assist in financing certain non-construction costs of the Project by arranging for a loan to the Association in the principal amount of $_____ on the terms, and subject to the conditions, set forth in the SIB Loan Agreement, to be evidenced by the Series 1998D Second Tier Subordinate Bond; and

WHEREAS, pursuant to the Comprehensive Agreement, FD/MK is willing to establish its $5,000,000 revolving line of credit loan facility in favor of the Association for the purposes, on the terms and subject to conditions set forth herein, to be evidenced by the Series 1998E Second Tier Subordinate Bond.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS

All capitalized, undefined terms used herein shall have the same meanings as set forth in Exhibit A attached to the Comprehensive Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of FD/MK. FD/MK represents and warrants to the Association and the Trustee that each of the representations and warranties of FD/MK set forth in Section 15.2 of the Comprehensive Agreement are true and correct on and as of the date of this Agreement.

Section 2.2. Representations and Warranties of Association. The Association represents and warrants to FD/MK and the Trustee that each of the representations and warranties of the Association set forth in Section 15.3 of the Comprehensive Agreement are true and correct on and as of the date of this Agreement.

ARTICLE III

CONTRACTOR LOAN

Section 3.1. Revolving Loan.

(a) FD/MK agrees to make a revolving credit loan (the "Contractor Loan") to the Association in a principal amount not to exceed $5,000,000 at any one time outstanding (the "Commitment Amount"). FD/MK shall make advances under the Contractor Loan from time to time during the period commencing on the first to occur of the Guaranteed Completion Date (without regard to extensions under the Design-Build Contract), the Opening Date or the Final Acceptance Date and continuing until the tenth anniversary of such earliest date (the "Availability Period"). On the tenth Business Day after receipt at any time during the Availability Period by FD/MK of a written draw request signed by an authorized representative of the Trustee on the form attached as Exhibit 3 to the Indenture, appropriately completed, certifying (i) that moneys on deposit in the Senior Bonds Debt Service Account and the First Tier Subordinate Bonds Debt Service Account, after application of all other Revenues available for such purpose, are insufficient to pay current debt service on the Senior Bonds and the First Tier Subordinate Bonds, and (ii) the amount required to cover such insufficiency, FD/MK shall pay such amount or an amount equal to the unfunded Commitment Amount, whichever is the lesser,

to the Trustee as an advance under the Contractor Loan. Each advance of the Contractor Loan shall be paid to the Trustee for application to Debt Service on the Senior Bonds and the First Tier Subordinate Bonds in accordance with subsection 3 of Section 506 of the Indenture.

(b) To the extent any advance under the Contractor Loan is repaid in whole or in part in accordance with Section 3.2 hereof, the Association may reborrow under the Contractor Loan up to the unfunded Commitment Amount during the Availability Period.

(c) The Contractor Loan shall be evidenced by the Series 1998E Second Tier Subordinate Bond issued by the Association and authenticated by the Trustee under the Indenture.

(d) The outstanding principal balance of the Contractor Loan shall bear interest at a fixed rate equal to (i) 12% per annum, compounded semi-annually on each February 15 and August 15, if, in the opinion of nationally recognized bond counsel, such interest is includable in gross income for federal income tax purposes, or (ii) 11% per annum, compounded semi-annually on each February 15 and August 15, if, in the opinion of nationally recognized bond counsel, such interest is not includable in gross income for federal income tax purposes.

(e) FD/MK shall not be entitled to any commitment fee in connection with the Contractor Loan.

Section 3.2. Repayment. The outstanding principal amount of the Contractor Loan and accrued interest thereon shall be payable in accordance with the provisions of the Series 1998E Second Tier Subordinate Bond solely from Revenues available for such purpose under Section 505 of the Indenture. The Contractor Loan shall have a final maturity date of August 15, 2028, unless sooner paid.

Section 3.3. Use of Proceeds. Proceeds of the Contractor Loan shall be used solely for the purpose of paying Debt Service on the Senior Bonds and the First Tier Subordinate Bonds after the Trustee first applies all other Revenues then available for such purpose under the Indenture.

Section 3.4. Parent Guaranty. The payment by FD/MK of its obligations under this Agreement shall be guaranteed, jointly and severally, by Fluor Corporation, a Delaware corporation, Morrison Knudsen Corporation, a Delaware corporation, and Morrison Knudsen Corporation, an Ohio corporation, under the Guaranty of Contractor Loan Agreement in the form of Exhibit J to the Comprehensive Agreement to be executed and delivered simultaneously with the execution and delivery of this Agreement.

Section 3.5. Conditions Precedent to First Advance. FD/MK shall have no obligation to make the first advance under the Contractor Loan unless the following conditions have been satisfied:

(a) as of the Financial Closing Date, the Association shall have issued, and the Trustee shall have authenticated, the Series 1998A Senior Bonds, Series 1998B Senior Bonds,

Series 1998C First Tier Subordinate Bonds, Series 1998D Second Tier Subordinate Bond and Series 1998E Second Tier Subordinate Bond in accordance with the provisions of the Indenture; and

(b) as of the Financial Closing Date, the SIB Loan Agreement shall have been executed and delivered by the CTB, the Association and the Trustee and the CTB shall have transferred the proceeds of the SIB Loan (exclusive of drawings for Project design work made prior to the Financial Closing Date) to the Trustee for deposit into the Series 1998D Bonds Proceeds Account available for the payment of non-construction costs of the Project.

Section 3.6. Restrictions on Transferability. The Series 1998E Second Tier Subordinate Bond has not been registered, and has been offered and sold in reliance upon an exemption from registration, under the Securities Act of 1933 (as amended, the "Securities Act"), and the securities laws of the Commonwealth of Virginia. Such Bond may not be offered or resold by the holder thereof unless registered under the Securities Act and any applicable securities laws of the Commonwealth of Virginia, or unless, in the opinion of counsel selected by the transferor and reasonably acceptable to the Association, an exemption from the registration requirements is available.

ARTICLE IV

DEFAULTS AND REMEDIES

Section 4.1. Defaults. Any "Event of Default" as defined in Section 902 of the Indenture shall constitute a default under this Agreement.

Section 4.2. Remedies. Upon the occurrence and continuation of a default under this Agreement, FD/MK shall have all the rights and remedies afforded the holder of the Series 1998E Second Tier Subordinate Bond under the Indenture; provided, however, no such default shall relieve FD/MK of its obligation to make any advance of the Contractor Loan hereunder or result in the acceleration of the indebtedness evidenced by such Bond.

ARTICLE V

CONSENT OF TRUSTEE

The Trustee joins in the execution of this Agreement solely for the purpose of consenting to the provisions hereof.

ARTICLE VI

MISCELLANEOUS

Section 6.1. Notices. Any notice, demand, direction or request authorized or required to be given under this Agreement shall be effective if in writing and delivered in person, or by an independent, reputable, overnight commercial courier, or by deposit in the United States mail, postage prepaid, registered or certified, with return receipt requested, addressed as follows:

If to FD/MK: FD/MK Limited Liability Company
c/o Fluor Daniel, Inc.
100 Fluor Daniel Drive
Greenville, SC 29607
Attn: Mr. James R. Carroll
President

With a copy to: Richard A. Fierce, Esq.
Fluor Daniel, Inc.
100 Fluor Daniel Drive
Greenville, SC 29607

If to the Association: Pocahontas Parkway Association
c/o Williams, Mullen, Christian & Dobbins
Two James Center
1021 East Cary Street
Richmond, VA 23219
Attn: Ralph L. "Bill" Axselle, Esq.

With a copy to: R. Hart Lee, Esq.
Williams, Mullen, Christian & Dobbins
Two James Center
1021 East Cary Street
Richmond, VA 23219

If to the Trustee: Crestar Bank
Corporate Trust Department
919 East Main Street
Richmond, Virginia 23219
Attn: K. A. Pickerel
Vice President

With a copy to: Michael W. Graff, Jr., Esq.
McGuire, Woods, Battle & Boothe, LLP
One James Center
Richmond, Virginia 23219

Section 6.2. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

Section 6.3. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 6.4. No Third Party Beneficiaries. Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligation of any of the parties to, any Person that is not a party to this Agreement.

Section 6.5. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia applicable to contracts executed and to be performed within Virginia. Venue for any legal action arising out of this Agreement shall lie in the Circuit Court of the City of Richmond, Virginia.

Section 6.6. Counterparts. This Agreement 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 agreement.

Section 6.7. Amendments. This Agreement shall not be modified, amended, canceled or revoked without the prior written consent of FD/MK, the Association and, until the Indenture has been discharged in accordance with its terms, the Trustee.

Section 6.8. Entire Agreement. This Agreement and the other Project Agreements constitute the entire and exclusive agreement between the parties relating to the specific matters covered herein and therein. All prior or contemporaneous verbal or written agreements, understandings, representations and/or practices relative to the foregoing are hereby superseded, revoked and rendered ineffective for any purpose.

[Signatures Appear on Next Page]

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this Agreement as of the date first written above.

FD/MK LIMITED LIABILITY COMPANY

By:_____
James R. Carroll
President

POCAHONTAS PARKWAY ASSOCIATION

By:_____
Joseph R. Jenkins
President

CRESTAR BANK, as Trustee

By:_____
K. A. Pickerel
Vice President

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Doc Name: Contractor Loan Agreement
Last Edit: 06/02/98

EXHIBIT J

GUARANTY OF CONTRACTOR LOAN AGREEMENT

GUARANTY OF CONTRACTOR LOAN AGREEMENT

This Guaranty of Contractor Loan Agreement ("Guaranty") is made as of _____, 1998, jointly and severally by Fluor Corporation, a Delaware corporation, Morrison Knudsen Corporation, a Delaware corporation, and Morrison Knudsen Corporation, an Ohio corporation (each a "Guarantor" and together the "Guarantors"), to the Pocahontas Parkway Association, a Virginia nonstock, nonprofit corporation (the "Association") and Crestar Bank, as trustee (the "Trustee") (individually a "Beneficiary" and together the "Beneficiaries") with respect to the obligations of FD/MK Limited Liability Company, a Delaware limited liability company (the "Contractor") under that certain Contractor Loan Agreement dated as of July 1, 1998 by and among Contractor, Association and Trustee (as amended, altered, varied or supplemented, the "Contractor Loan Agreement"). The Contractor Loan Agreement is hereby incorporated by reference herein. As a condition to entering into the Contractor Loan Agreement and issuance of bonds pursuant to a certain Master Indenture of Trust to be entered into between the Association and Trustee, the Beneficiaries have required Guarantors to execute and deliver this Guaranty. The Contractor is an affiliate of each Guarantor. Guarantors acknowledge that financial and direct benefits will accrue to Guarantors by virtue of entering into this Guaranty and that such benefits constitute adequate consideration therefor.

ARTICLE I

GUARANTY

Section 1.01 **Guaranty.** Guarantors hereby jointly and severally guarantee to the Beneficiaries and their respective successors and assigns, absolutely, unconditionally and irrevocably, the prompt payment and satisfaction without offset of all obligations of the Contractor now or hereafter arising under the Contractor Loan Agreement (collectively the "Guaranteed Obligations"). The Guarantors hereby further agree that if Contractor shall fail to perform or pay in full, when due, any of the Guaranteed Obligations, the Guarantors will promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due in accordance with the terms of such extension or renewal.

Section 1.02 **Obligations.** Except as provided in Section 4.07 below, the obligations of the Guarantors hereunder are absolute and unconditional and independent of the Guaranteed Obligations of the Contractor and shall remain in full force and effect until all the Guaranteed Obligations have been paid, performed and satisfied in full, irrespective of any assignment, amendment, modification or termination of the Contractor Loan Agreement.

Section 1.03 **No Exoneration.** The obligations of the Guarantors hereunder shall not be released, discharged or impaired in any way by reason of:

(a) any failure of the Beneficiaries to retain or preserve any rights against any person;

(b) the lack of prior enforcement by the Beneficiaries of any rights against any person and the lack of exhaustion of any bond, letter of credit or other security held by the Beneficiaries;

(c) the lack of authority or standing of Contractor or the dissolution of either of the Guarantors, the Contractor or the Beneficiaries;

(d) with or without notice to Guarantors, the amendment, alteration, acceleration, extension, waiver, retirement, suspension, surrender, compromise, settlement, release, revocation or termination of, or failure to assert, any portion of the Guaranteed Obligations, the Contractor Loan Agreement, any rights or remedies of the Beneficiaries (including rights of offset) against Contractor, or any bond, letter of credit, other guaranty, instrument, document, collateral security or other property given or available to the Beneficiaries to secure all or any part of the Guaranteed Obligations, provided that the Guarantors shall have available to them the same defenses, if any, to performance of the Guaranteed Obligations that may be available to the Contractor based on any such amendment, alteration, acceleration, extension, waiver, retirement, suspension, surrender, compromise, settlement, release, revocation or termination or failure to assert voluntarily made by the Beneficiaries, except defenses available to the Contractor under any federal or state law respecting bankruptcy, arrangement, reorganization or similar relief of debtors.

(e) the extension of the time for payment of any amount owing or payable under the Contractor Loan Agreement or of the time for performance or completion of any Guaranteed Obligation;

(f) the taking or the omission of any of the actions referred to in the Contractor Loan Agreement or of any actions under this Guaranty;

(g) the existence now or hereafter of any other guaranty or endorsement by the Guarantors or anyone else of all or any portion of the Guaranteed Obligations;

(h) the acceptance, release, exchange or subordination of additional or substituted security for all or any portion of the Guaranteed Obligations;

(i) the taking of any action or the failure to take any action which would constitute a legal or equitable defense, release or discharge of a surety;.

(j) any bankruptcy, arrangement, reorganization or similar proceeding for relief of debtors under federal or state law hereinafter initiated by or against the Contractor or any of its members, any other guarantor of the Guaranteed Obligations, or the Beneficiaries;

(k) any full or partial payment or performance of any Guaranteed Obligation which is required to be returned as a result of or in connection with the insolvency, reorganization or bankruptcy of Contractor or any of its members or otherwise;

(l) the rejection of any Contract in connection with the insolvency, reorganization or bankruptcy of Contractor or any of its members;

(m) an impairment of or limitation on damages due from Contractor by operation or law in any insolvency, reorganization or bankruptcy proceeding by or against Contractor or any of its members;

(n) failure by any Beneficiary to file or enforce a claim against the estate (either in administration, bankruptcy or other proceedings) of Contractor, any of its members, any Guarantor or any other guarantor;

(o) any merger, consolidation or other reorganization to which the Contractor, the Beneficiaries or either Guarantor is a party;

(p) any sale or disposition of all or any portion of any Guarantor's direct or indirect ownership in the Contractor, or any other event which results in discontinuation or interruption in the business relations of Contractor with either Guarantor;

(q) the lack of genuineness, validity, regularity or enforceability of any of the Guaranteed Obligations or the Contractor Loan Agreement;

(r) the failure of any Beneficiary to assert any claim or demand, bring any action or exhaust its remedies against the Contractor or any security before proceeding against any Guarantor hereunder; or

(s) termination of the Contractor Loan Agreement by reason of Contractor's default thereunder.

Section 1.04 <u>Enforcement of Contractor Loan Agreement and Guaranteed Obligations</u>.

(a) Nothing contained herein shall prevent or limit the Beneficiaries from pursuing any of their rights and remedies under the Contractor Loan Agreement, or any provisions thereof, according to its terms. Beneficiaries may apply any moneys, property or security available to it in such manner and amounts and at such times to the payment or reduction or performance of any Guaranteed Obligation as Beneficiaries may elect, and may generally deal with Contractor, the Guaranteed Obligations, such security and property as Beneficiaries may see fit. Notwithstanding the foregoing, Guarantors shall remain bound by this Guaranty.

(b) Subject to Section 4.07 below, Guarantors shall be obligated to undertake all curative action which may be agreed upon between the Beneficiaries or either of them and Contractor. If, following notice under Section 4.07 below, Guarantors do not use their best efforts to proceed promptly to effectuate such curative action within the directed time, or should no agreement on the curative action be reached with the Contractor within 14 days after either of the Beneficiaries notifies the Contractor and Guarantors (under Section 4.07 below) of the need for curative action (or immediately, in the case of emergency conditions), the Beneficiaries, without further notice to Guarantors, shall have the right to perform or have performed by third parties the necessary curative action, and the costs thereof shall be borne by Guarantors.

(c) The Beneficiaries may bring and prosecute a separate action or actions against the Guarantors or any of them to enforce their or its liabilities hereunder, regardless of whether any action is brought against the Contractor and regardless of whether any other person is joined in any such action or actions. Nothing shall prohibit the Beneficiaries from exercising their rights against any of the Guarantors, the Contractor, any other guarantor of the Guaranteed Obligations, a payment bond or performance bond or other security, if any, which insures the payment of the Guaranteed Obligations, or any other person simultaneously, or any combination thereof jointly and/or severally.

Section 1.05 **Association Bankruptcy.** Each Guarantor covenants and agrees that its obligations hereunder constitute a direct obligation of the Guarantor to the Trustee and shall be enforceable by the Trustee; and that it irrevocably waives, to the full extent permitted by applicable law and for the benefit of, and as a separate undertaking with, the Trustee, any defense to the performance of this Guaranty which may be available to the Guarantor as a consequence of this Agreement being rejected or otherwise not assumed by the Association or by any trustee or other similar official for the Association or for any substantial part of the property of the Association, or as a consequence of this Agreement being otherwise terminated or modified, in any proceeding by or against the Association respecting the bankruptcy, insolvency, liquidation, winding up or reorganization of the Association or the debts of the Association under any law relating to bankruptcy, insolvency, liquidation, winding up, reorganization or other relief or protection of debtors. The foregoing waiver shall be effective regardless of whether such rejection, non-assumption, termination or modification occurs due to this Agreement being held to be an executory contract or due to any other circumstance. If this Agreement shall be so rejected or otherwise not assumed, or so terminated or modified, each Guarantor agrees for the benefit of, and as a separate undertaking with, the Trustee that it will be unconditionally liable to pay the Trustee an amount equal to the payment which would otherwise be payable by such Guarantor under or in connection with this Agreement if this Agreement were not so rejected or otherwise not assumed or were otherwise not so terminated or modified; and such amounts shall be applied as such payment would otherwise be applied to the payment of the Senior Bonds or First Tier Subordinate Bonds, as applicable.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01 **Representations and Warranties.** Each Guarantor hereby represents and warrants for itself that:

(a) Consents. Contractor is a limited liability company of which Fluor Daniel, Inc. and Morrison Knudsen Corporation, an Ohio corporation, are the sole members; Fluor Corporation is the ultimate parent company of Fluor Daniel, Inc. and Morrison Knudsen Corporation, a Delaware corporation, is the ultimate parent company of Morrison Knudsen Corporation, an Ohio corporation. Consent of the Contractor to any modification or amendment of the Contractor Loan Agreement constitutes knowledge thereof and consent thereto by Guarantors;

(b) Organization and Existence. Each Guarantor is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation;

(c) Power and Authority. Each Guarantor has the full power and authority to execute, deliver and perform this Guaranty, and to own and lease its properties and to carry on its business as now conducted and as contemplated hereby;

(d) Authorization and Enforceability. This Guaranty has been duly authorized, executed and delivered by each Guarantor and constitutes the legal, valid and binding obligation of each Guarantor, enforceable against it in accordance with the terms hereof, subject as to enforceability of remedies to limitations imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the enforcement of creditors' rights generally, as applicable to each Guarantor, and to general principles of equity;

(e) No Governmental Consents. No authorization, consent or approval of, notice to or filing with, any governmental authority, is required for the execution, delivery and performance by the Guarantors of this Guaranty;

(f) No Conflict or Breach. Neither the execution, delivery or performance by the Guarantors of this Guaranty, nor compliance with the terms and provisions hereof, conflicts or will conflict with or will result in a breach or violation of any material terms, conditions, or provisions of any law, governmental rule or regulation or the charter documents, as amended, or bylaws, as amended, of the Guarantors or any order, writ, injunction or decree of any court or governmental authority against any Guarantor or by which it or any of its properties is bound, or any indenture, mortgage or contract or other agreement or instrument to which any Guarantor is a party or by which it or any of its properties is bound, or constitutes or will constitute a default thereunder or will result in the imposition of any lien upon any of its properties;

(g) No Proceedings. There are no suits or proceedings pending, or, to the knowledge of each Guarantor, threatened in any court or before any regulatory commission, board or other governmental administrative agency against any Guarantor which could reasonably

be expected to have a material adverse affect on the business or operations of any Guarantor, financial or otherwise, or on its ability to fulfill its obligations hereunder; and

(h) Contractor Loan Agreement. The Guarantors are fully aware of and consent to the terms and conditions of the Contractor Loan Agreement.

ARTICLE III

WAIVERS, SUBROGATION AND SUBORDINATION

Section 3.01 Waivers.

(a) Guarantors hereby unconditionally waive:

(i) notice of acceptance of this Guaranty or of the intention to act in reliance hereon and of reliance hereon;

(ii) notice of the incurring, contracting, amendment, alteration, acceleration, extension, waiver, retirement, suspension, surrender, compromise, settlement, release, revocation or termination of, or of the failure to assert, any Guaranteed Obligation or the Contractor Loan Agreement;

(iii) demand on the Guarantors in the event of default;

(iv) any invalidity of the Contractor Loan Agreement due to lack of proper authorization of or a defect in execution thereof by Contractor, its purported representatives or agents;

(v) demand for payment or performance, presentment, protest and notice of nonpayment or dishonor respecting any Guaranteed Obligation;

(vi) all other notices to which Guarantors might otherwise be entitled, except notice as set forth in Section 4.07 below;

(vii) any demand for payment hereunder;

(viii) the provisions of Sections 49-25 and 49-26 of the Code of Virginia of 1950, as amended; and

(ix) any duty on the part of the Beneficiaries to disclose to Guarantors any facts the Beneficiaries may now or hereafter know with regard to Contractor.

(b) Guarantors also hereby waive any right to require, and the benefit of all laws now or hereafter in effect giving the Guarantors the right to require, any prior enforcement as referred to in Section 1.03(b) above, and the Guarantors agree that any delay in enforcing or failure to enforce any such rights or in making demand on any Guarantor for the performance of the obligations of the Guarantors under this Guaranty shall not in any way affect the liability of the Guarantors hereunder.

(c) Guarantors hereby waive, as against the Beneficiaries and any person claiming under the Beneficiaries, all rights and benefits which might accrue to the Guarantors by reason of any of bankruptcy, arrangement, reorganization or similar proceedings by or against Contractor and agree that their obligations and liabilities hereunder shall not be affected by any modification, limitation or discharge of the obligations of Contractor that may result from any such proceedings.

(d) Until the Contractor shall have fully and satisfactorily paid, performed, completed and discharged all the Guaranteed Obligations, Guarantors hereby agree not to file, or solicit the filing by others of, any involuntary petition in bankruptcy against Contractor. Guarantors hereby agree not to file, or solicit the filing by others of any involuntary petition in bankruptcy against the Association at any time.

Section 3.02 Subrogation. Until the Contractor shall have fully and satisfactorily paid, performed, satisfied and discharged all the Guaranteed Obligations, the Guarantors shall not claim or enforce any right of subrogation, reimbursement or indemnity against the Contractor, or any other right or remedy which might otherwise arise on account of any payment made by any Guarantor or any act or thing done by any Guarantor on account of or in accordance with this Guaranty.

Section 3.03 Subordination.

(a) All existing or future indebtedness of Contractor to any Guarantor is subordinated to all of the Guaranteed Obligations. Whenever and for so long as Contractor shall be in default in the performance or payment of any Guaranteed Obligation, no payments with respect to any such indebtedness shall be made by Contractor to any Guarantor without the prior written notice to the Beneficiaries. (b) Each Guarantor shall file all claims against Contractor in any bankruptcy or other proceedings in which the filing of claims is required or permitted by law, upon any obligation or indebtedness of Contractor to such Guarantor, and shall have assigned to the Beneficiaries all of such Guarantor's rights thereunder to the extent of outstanding Guaranteed Obligations. If such Guarantor does not file any such claim, each of the Beneficiaries is authorized as such Guarantor's attorney-in-fact to do so in such Guarantor's name; or in the Beneficiary's discretion, the Beneficiary is authorized to assign the claim to, and cause proof of claim to be filed in the name of, the Beneficiaries or their nominee. In all such cases, whether in administration, bankruptcy, or otherwise, the person or persons authorized to pay such claim shall pay to the Beneficiaries or their nominee the full amount payable on the claim in the proceeding before making any payment to either Guarantor, and to the full extent necessary for that purpose, each Guarantor assigns to the Beneficiaries all of its rights to any payments or distributions to which it otherwise would be entitled. If the amount so paid is in excess of the Guaranteed Obligations covered hereby, the Beneficiaries shall pay the amount of the excess to the party determined by it to be entitled thereto.

ARTICLE IV

MISCELLANEOUS

Section 4.01 **Joint and Several Liability.** The obligations and liabilities of each Guarantor hereunder shall be joint and several with the obligations and liabilities of each other Guarantor hereunder and with the obligations and liabilities of any other guarantor of the Guaranteed Obligations.

Section 4.02 **Enforcement of Guaranty.**

(a) The terms and provisions of this Guaranty shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia applicable to contracts executed and to be performed within the Commonwealth of Virginia.

(b) No supplement, amendment, modification, waiver or termination of this Guaranty shall be binding unless executed in writing and duly signed by the Beneficiaries (and approved in writing by the Virginia Department of Transportation as provided in Section 4.06 below). No waiver of any of the provisions of this Guaranty shall be deemed or shall constitute a waiver of any other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. No failure on the part of the Beneficiaries to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise of any other right.

(c) All disputes between the Beneficiaries or either of them, on the one hand, and any Guarantor, on the other hand, arising under or relating to this Guaranty or its breach shall be filed, heard and decided in the Circuit Court for the City of Richmond, Virginia, Division I, which shall have exclusive jurisdiction and venue. Each Guarantor hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of any action or proceedings in such court arising out of or relating to this Guaranty. Each Guarantor agrees that a final non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each Guarantor agrees and consents to service of process by delivery in the manner and to the address set forth in Section 4.03 below. Nothing in this section shall affect the right of the Beneficiaries to serve legal process in any other manner permitted by law.

(d) The rights of the Beneficiaries hereunder are cumulative and shall not be exhausted by any one or more exercises of said rights against any or all Guarantors or other guarantors or by any number of successive actions until and unless all Guaranteed Obligations have been fully paid or performed.

(e) The Guarantors shall pay to each Beneficiary all reasonable out-of-pocket legal fees and other reasonable out-of-pocket costs and expenses (including fees and costs on appeal) each Beneficiary incurs by reason of any permitted enforcement by the Beneficiary of its

rights hereunder; provided that such Beneficiary is the prevailing party with respect to a substantial portion of its claim.

(f) THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION OR CLAIM WHICH IS BASED ON, OR ARISES OUT OF , UNDER OR IN CONNECTION WITH, THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED BY THIS GUARANTY.

Section 4.03 **Notices.** All notices, demands or other communications under this Guaranty shall be in writing and shall be sent to each other party, at its address specified below (or such other address as a party may from time to time specify to the other parties by notice given in accordance with this Guaranty), and shall be deemed to have been duly given when actually received by the addressee or when served:

(a) personally,

(b) by independent, reputable, overnight commercial courier,

(c) by facsimile transmission:

(i) where the transmitting party includes a cover sheet identifying the name, location and identity of the transmitting party, the phone number of the transmitting device, the date and time of transmission and the number of pages transmitted (including the cover page),

(ii) where the transmitting device or receiving device records verification of receipt and the date and time of transmission receipt and the phone number of the other device, and

(iii) where the facsimile transmission is immediately followed by service of the original of the subject item in the manner provided in subsections (a), (b) or (d), or

(d) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to the Association:

Pocahontas Parkway Association
c/o Williams, Mullen, Christian & Dobbins
Two James Center
1021 East Cary Street
Richmond, Virginia 23219
Attn: Ralph L. "Bill" Axselle, Esq.
Fax: (804) 783-6507

with a copy to:

R. Hart Lee, Esq.
Williams, Mullen, Christian & Dobbins
Two James Center
1021 East Cary Street
Richmond, Virginia 23219
Fax: (804) 783-6507

If to Trustee:

Crestar Bank
919 East Main Street
Richmond, Virginia 23219
Attn: Ms. Kelly A. Pickerel
Fax: (804) 782-7855

With a copy to:

Michael W. Graff, Jr., Esq.
McGuire, Woods, Battle & Boothe LLP
One James Center
Richmond, Virginia 23219-4030
Fax: (804) 775-1061

If to Fluor Corporation:

Fluor Corporation
c/o 100 Fluor Daniel Drive
Greenville, SC 29607-2762
Attn: Ronald W. Oakley
Fax: (864) 281-6868

with a copy to:

Lawrence M. Fisher, Esq.
Fluor Corporation
3333 Michelson Drive
Irvine, CA 92730
Fax: (949) 975-5454

If to Morrison Knudsen Corporation (Delaware):

Morrison Kundsen Corp. (Del.)
720 Park Boulevard
Boise, Idaho 83729
Attn: Mr. Steven Hanks
Fax: 208 386-5220

With a copy to:
Morrison Kundsen Corp. (Del.)
720 Park Boulevard
Boise, Idaho 83729
Attn: Mr. Richard Parry
Fax: 208 386-5220

If to Morrison Knudsen Corporation (Ohio)
Morrison Kundsen Corp. (Ohio)
720 Park Boulevard
Boise, Idaho 83729
Attn: Mr. Darrol Groven
Fax: 208 386-5197

With a copy to:
Morrison Kundsen Corp. (Ohio)
720 Park Boulevard
Boise, Idaho 83729
Attn: Mr. Kevin J. Holderness
Fax: 208 386-5197

Section 4.04 **Severability.** If any provision of this Guaranty shall for any reason be held invalid or unenforceable, to the fullest extent permitted by law, such invalidity or unenforceability shall not affect any other provisions hereof, but this Guaranty shall be construed as if such invalid or unenforceable provision had never been contained herein.

Section 4.05 **Assignment.** Neither this Guaranty nor any of the rights, interest or obligations hereunder shall be assigned or delegated by any Guarantor without the prior written consent of the Beneficiaries. This Guaranty and all of the provisions hereof shall be binding upon the Guarantors and their respective successors and permitted assigns and shall inure to the benefit of the Beneficiaries and their respective successors and assigns.

Section 4.06 **No Third Party Beneficiaries.** Nothing in this Guaranty shall entitle any person other than the Beneficiaries and their respective successors and assigns to any claim, cause or action, remedy or right of any kind, except that this Guaranty shall not be amended, released or terminated without the prior written consent of the Virginia Department of Transportation, and any attempt to do so without such prior written consent shall be void.

Section 4.07 **Certain Rights, Duties, Obligations and Defenses.** Notwithstanding Sections 1.02 and 1.03 above, Guarantors shall have all rights, duties, obligations and defenses available to Contractor under the Contractor Loan Agreement relating to waiver, surrender, compromise, settlement, release or termination voluntarily made by Beneficiaries, ; failure to give notice of default to Contractor to the extent required by the Contractor Loan Agreement; interpretation or performance of terms and conditions of the Contractor Loan Agreement; or other defenses available to the Contractor under the Contractor Loan Agreement except those expressly waived in this Guaranty and defenses available to the Contractor under any federal or state law respecting bankruptcy, arrangement, reorganization or similar relief of debtors

Section 4.08 **Mergers, etc.** No Guarantor shall, in a single transaction or through a series of related transactions, consolidate with or merge with or into any other person or sell, assign, convey, transfer, lease or otherwise dispose of any material portion of its properties and assets to any person or group of affiliated persons, unless:

(a) in case of a merger, the Guarantor shall be the continuing corporation; or

(b) the person (if other than the Guarantor) formed by such consolidation or into which the Guarantor merges or the person (or group of affiliated persons) that acquires by sale, assignment conveyance, transfer, lease or other disposition a material portion of the properties and assets of the Guarantor shall expressly agree to perform all of the obligations of the Guarantor hereunder, as a joint and several obligor with the Guarantor if the Guarantor continues to exist after such transaction, by a writing in form and substance reasonably satisfactory to the Beneficiaries.

Notwithstanding the agreement by any such person to perform the obligations of a Guarantor hereunder, such Guarantor shall not be released from its obligations hereunder.

Section 4.09 **Survival.** The obligations and liabilities of Guarantors hereunder shall survive termination of the Contractor Loan Agreement or Contractor's rights thereunder due to default by the Contractor thereunder.

Section 4.10 **Headings.** The Article and Section headings in this Guaranty are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

Section 4.11 **Counterparts.** This Guaranty may be executed in one or more counterparts, all of which shall constitute one and the same instrument.

Section 4.12 **Entire Agreement.** This Guaranty constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. Guarantors agree to execute, have acknowledged and delivered to the Beneficiaries such other and further instruments as may be required by the Beneficiaries to effectuate the intent and purpose hereof. IN WITNESS WHEREOF, the Guarantors have caused this Guaranty to be executed as of the day and year first above written by their respective duly authorized officers.

FLUOR CORPORATION, a Delaware corporation

By: _____
Name: _____
Title: _____

MORRISON KNUDSEN CORPORATION, a Delaware corporation

By: _____
Name: _____
Title: _____

MORRISON KNUDSEN CORPORATION, an Ohio corporation

By: _____
Name: _____
Title: _____

Receipt of this Guaranty is hereby acknowledged and accepted effective as of the 1st day of July, 1998.

POCAHONTAS PARKWAY ASSOCIATION

By: _____
Joseph R. Jenkins, President and Treasurer

CRESTAR BANK

By: _____
Authorized Officer

EXHIBIT K

MEMORANDUM AND ASSIGNMENT

Drafted by and when
recorded return to:

J. Waverly Pulley, III, Esq.
Hunton & Williams
951 East Byrd Street
Richmond, Virginia 23219

THIS DOCUMENT CONTAINS AN ASSIGNMENT OF CERTAIN PROPERTY RIGHTS AS CONTEMPLATED BY VIRGINIA CODE SECTION 55-220.1 (1950, AS AMENDED)

MEMORANDUM OF COMPREHENSIVE AGREEMENT AND ABSOLUTE ASSIGNMENT OF TOLL REVENUES

THIS MEMORANDUM OF COMPREHENSIVE AGREEMENT AND ABSOLUTE ASSIGNMENT OF TOLL REVENUES (this "Memorandum and Assignment") dated as of July 1, 1998, is made and entered into by and between the VIRGINIA DEPARTMENT OF TRANSPORTATION, a department of the Commonwealth of Virginia (the "Department" and, in connection with Article II hereof, as the assignee for indexing purposes), having an address of 1401 East Broad Street, Richmond, Virginia 23219, FD/MK LIMITED LIABILITY COMPANY, a Delaware limited liability company ("FD/MK" and, in connection with Article II hereof, as an assignor for indexing purposes), having an address at Fluor Daniel, Inc., 100 Fluor Daniel Drive, Greenville, South Carolina 29607 (Attention: James R. Carroll, President), POCAHONTAS PARKWAY ASSOCIATION, a Virginia nonstock, nonprofit corporation (the "Association" and, in connection with Article II hereof, as an assignor for indexing purposes), having an address at Two James Center, 1021 East Cary Street, Richmond, Virginia 23219, and CRESTAR BANK, a Virginia banking corporation, not individually but solely in its capacity as Trustee (together with its successors in trust, the "Trustee" and, in connection with Article II hereof, as assignee for indexing purposes) under that certain Master Indenture of Trust dated as of July 1, 1998 (as amended and supplemented from time to time, the "Indenture"), between the Association and the Trustee.

RECITALS

In consideration of the covenants and conditions more particularly set forth in that certain Comprehensive Agreement to Develop and Operate Route 895 Connector by and between the Department and FD/MK, dated as of June 3, 1998 (as the same may be amended from time to time, the "Comprehensive Agreement"), which agreement has been entered into pursuant to the terms and conditions of the Virginia Public-Private Transportation Act of 1995, Va. Code Ann. §§ 56-556 et seq. (the "PPTA"), the Department has granted to FD/MK the right, and FD/MK has agreed, to acquire in the name of the Department and to design, develop and construct the Route 895 Connector as a limited access highway to be located primarily in the southeastern portion of Henrico

County, Virginia, but extending for a short distance into Chesterfield County, Virginia and the City of Richmond, Virginia (the "Project"). A description of the proposed Project Right-of-Way is attached as Appendix 1 hereto. Capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in **Exhibit A** hereto.

Under the Comprehensive Agreement and for purposes of the PPTA, FD/MK will be the initial statutory "operator" of the Project until the earliest to occur of (i) the Opening Date, (ii) the Final Acceptance Date or (iii) the date, if any, on which FD/MK's rights under the Comprehensive Agreement and the Design-Build Contract are terminated by the Department pursuant to Article XVI of the Comprehensive Agreement (herein the "Transition Date"). Pursuant to that certain Project Financing, Assignment and Assumption Agreement among the Department, FD/MK and the Association, dated as of June 3, 1998 (the "Project Financing Agreement"), FD/MK has irrevocably assigned to the Association all rights, obligations, duties and liabilities arising on and after the Transition Date under the Comprehensive Agreement (but not the Design-Build Contract and except FD/MK's indemnity obligations), including without limitation all rights and duties as the "operator" of the Project under the PPTA and the Comprehensive Agreement (which rights and duties include, without limitation, the right to impose and collect Toll Revenues with respect to the Project (the "Toll Servicing Rights")).

In order to finance the acquisition, design, development and construction of the Project, the Association will issue its Bonds and grant a security interest in and a lien on the Trust Estate, including without limitation the Toll Revenues, in favor of the Trustee as security for the Bond Owners, all in accordance with the provisions of the Indenture.

The Indenture provides that, immediately after the execution and delivery of the Master Indenture and the First Supplemental Indenture thereto, the Association will irrevocably and absolutely assign and transfer to the Department ownership of all Toll Revenues, subject to the lien of the Indenture, on the terms set forth in this Memorandum and Assignment. Such assignment is made in consideration of the Department's agreement to undertake certain obligations with respect to the Project specified in the Comprehensive Agreement, including without limitation the obligation, subject to appropriation and availability of funds, to advance funds for Current Expenses and Extraordinary Maintenance and Repair costs to the extent sufficient funds are not available for such purpose from the flow of funds under Section 505 of the Indenture.

The parties hereto desire to enter into this Memorandum and Assignment, which is to be recorded in the appropriate land records of the City of Richmond and the Counties of Henrico and Chesterfield, Virginia, in order that third parties may have record notice of (i) the Comprehensive Agreement and the rights created thereunder and certain terms and provisions thereof as they may apply to the Project, all as set forth in Article I below, (ii) the collateral assignment by the Association to the Trustee, pursuant to Virginia Code Section 55-220.1(1950, as amended) and the Indenture, of the Toll Revenues and the Toll Servicing Rights, (iii) the absolute transfer of ownership of the Toll Revenues to the Department, subject to the lien of the Indenture, pursuant to Article

II below, and (iv) the retention by the Association of the Toll Servicing Rights and the obligations and duties relating thereto, subject to the lien of the Indenture.

AGREEMENTS

NOW, THEREFORE, in consideration of the purchase of the Bonds by the Owners thereof and the mutual covenants set forth in the Comprehensive Agreement and the other Project Agreements, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto acknowledge, agree and confirm as follows:

ARTICLE I

MEMORANDUM OF COMPREHENSIVE AGREEMENT

Section 1.1. The Comprehensive Agreement shall be in full force and effect for a term commencing on the date of the Comprehensive Agreement and, unless sooner terminated in accordance with its provisions, ending on the latest date the Bonds have been paid or defeased in full and the lien of the Indenture has been discharged in accordance with its terms.

Section 1.2. All of the terms, conditions, provisions and covenants of the Comprehensive Agreement are incorporated in this Article I by reference as though written out at length herein, and the Comprehensive Agreement and this Article I shall be deemed to constitute a single instrument or document. The rights and obligations of the parties hereto shall be construed solely by reference to the provisions of the Comprehensive Agreement and the Project Financing Agreement. In the event of any conflict between the provisions of the Comprehensive Agreement or the Project Financing Agreement and this Article I, the Comprehensive Agreement and the Project Financing Agreement shall control. Copies of the Comprehensive Agreement and the Project Financing Agreement are maintained by the Department at its address set forth above.

ARTICLE II

ABSOLUTE ASSIGNMENT OF TOLL REVENUES

Section 2.1. FD/MK and the Association hereby irrevocably and absolutely sell, transfer, set over and assign to the Department, subject to the lien of the Indenture, all of their right, title, interest and estate in and to Toll Revenues now existing or hereafter arising from the operation of the Project, including without limitation, revenue and income generated from the toll booths, toll plazas and toll collection systems now or hereafter located on or used in connection with the Project.

Section 2.2. The assignment of Toll Revenues effected by the provisions of Section 2.1 above is absolute and shall not be construed to create a lien on or a security

interest in the Toll Revenues as collateral security for any indebtedness or other obligation of any Person. FD/MK and the Association irrevocably waive any right, legal or equitable, now existing or hereafter arising, to offset against, attach, levy upon, enjoin or otherwise delay or disrupt any payment of Toll Revenues constituting the Department's property on account of any claim or obligation between FD/MK, the Association, the Department or any other Person.

Section 2.3. The parties hereto acknowledge that the Toll Servicing Rights and the obligations and duties related thereto have been retained by the Association (and delegated by the Association to the Department under the Comprehensive Agreement), but the Toll Servicing Rights have been assigned and pledged to the Trustee as collateral security for the Bonds under the Indenture as part of the Trust Estate.

Section 2.4. The Association and FD/MK agree, without charge, cost or expense to the Department, to make, execute, acknowledge and deliver all such further supplements to this Memorandum and Assignment, UCC-1 financing statements, documents, modification or other agreements, instruments or assurances, and cause to be done all such further acts and things, as may at any time now or hereafter be required by the Department to confirm, establish and fully protect the absolute assignment of Toll Revenues hereunder.

ARTICLE III

PRECAUTIONARY RECORDATION

This Memorandum and Assignment has been recorded solely as a precautionary matter so as to provide record notice to third parties of (i) the Comprehensive Agreement and the rights created thereunder and certain terms and provisions thereof as they may apply to the Project, (ii) the absolute assignment of Toll Revenues by FD/MK and the Association to the Department, subject to the lien of the Indenture and (iii) the collateral assignment by the Association to the Trustee, pursuant to Virginia Code Section 55-220.1(1950, as amended) and the Indenture, of the Toll Revenues and the Toll Servicing Rights to the extent, if any, all or any portion of the statutory operator's interest in the Project is found at any time to constitute an interest in real property under Laws, Regulations and Ordinances (which finding the parties have expressly disclaimed in Section 3.4 of the Comprehensive Agreement).

ARTICLE IV

CONSENT OF TRUSTEE

The Trustee joins in the execution of this Memorandum and Assignment for the purpose of giving its consent to the provisions hereof.

ARTICLE V

MISCELLANEOUS

Section 5.1. This Memorandum and Assignment may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which, when so executed and delivered, shall be an original but all of which together constitute one and the same agreement.

Section 5.2. This Memorandum and Assignment shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.

Section 5.3. This Memorandum and Assignment shall not be amended, supplemented, terminated or released of record without the prior written consent of the parties; provided that FD/MK's consent shall not be required after the Transition Date.

Section 5.4. This Memorandum and Assignment may be terminated and released of record (i) before the Transition Date by recordation of a notice of termination and release executed by the Department, the Association, FD/MK and the Trustee, and (ii) after the Transition Date by recordation of a notice of termination and release executed by the Department and the Association and, unless the lien of the Indenture has been discharged in accordance with its terms, the Trustee, and stating that the Transition Date has occurred. Upon recordation, the statement referred to in clause (ii) above may be relied upon by all Persons having no actual knowledge to the contrary, as conclusive proof that the Transition Date has occurred. The recordation of any such termination and release shall not be construed to divest the Department of its rights as assignee of the Toll Revenues.

[Signatures Appear on Next Page]

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum and Assignment to be executed as of the date and year first written above.

VIRGINIA DEPARTMENT OF TRANSPORTATION

By_____
David R. Gehr, Commonwealth
Transportation Commissioner

FD/MK LIMITED LIABILITY COMPANY

By_____
James R. Carroll
President

POCAHONTAS PARKWAY ASSOCIATION

By_____
Joseph R. Jenkins
President

CRESTAR BANK, as Trustee

By_____
K. A. Pickerel,
Vice President

COMMONWEALTH OF VIRGINIA
CITY OF RICHMOND

The foregoing instrument was acknowledged before me this ___ day of _____, 1998, by David R. Gehr, the Commonwealth Transportation Commissioner, on behalf of the Virginia Department of Transportation, on behalf of such department.

_____
Notary Public

My Commission Expires:_____

[seal]

COMMONWEALTH OF VIRGINIA
CITY OF RICHMOND

The foregoing instrument was acknowledged before me this ___ day of _____, 1998, by James R. Carroll, the President of FD/MK Limited Liability Company, on behalf of such limited liability company.

_____
Notary Public

My Commission Expires:_____

[seal]

COMMONWEALTH OF VIRGINIA
CITY OF RICHMOND

The foregoing instrument was acknowledged before me this ___ day of _____, 1998, by Joseph R. Jenkins, the President of Pocahontas Parkway Association, on behalf of such corporation.

_____
Notary Public

My Commission Expires:_____

[seal]

COMMONWEALTH OF VIRGINIA
CITY OF RICHMOND

The foregoing instrument was acknowledged before me this ___ day of _____, 1998, by K. A. Pickerel, Vice President of Crestar Bank, on behalf of such bank, not individually but in its capacity as Trustee under the Indenture.

_____
Notary Public

My Commission Expires:_____

[seal]

Appendix 1

Description of the Proposed Project Right-of-Way

Exhibit A

DEFINITIONS

Bond or **Bonds** means any bond or bonds, as the case may be, authenticated and delivered under and pursuant to the Indenture.

Bond Owner or **Owner** means, when used with respect to Bonds, the registered owner of any Bond.

Current Expenses means the Association's and/or Department's current out-of-pocket expenses of management, administration, maintenance, repair, preservation and operation of the Project and shall include, without limiting the generality of the foregoing, all expenses:

(a) to establish, market, collect, protect, adjust, transfer and account for tolls;

(b) to pay premiums and reserves for insurance;

(c) of management, administration and engineering relating to maintenance, repair and operation of the Project;

(d) of police services and incident response;

(e) of the Trustee and any securities depository;

(f) of legal services relating to Project management and operation;

(g) of marketing, promotion and advertising;

(h) to pay sales and use taxes, property taxes and any other taxes, fees, charges or levies (not based on income or revenue) imposed by a governmental entity and directly related to the Project or Project Right of Way or the operation thereof;

(i) of administering and maintaining the corporate existence of Association, and of administering Association's compliance with its obligations under the Project Agreements;

(j) compensation due to Department under Section 8.2(e) of the Comprehensive Agreement or for services rendered after the Opening Date to the extent provided in Section 10.2 of the Comprehensive Agreement; and

(k) otherwise required or permitted to be paid by the Association or Department under the provisions of the Indenture, the Comprehensive Agreement or by law for management and operation of the Project.

Notwithstanding the foregoing, "Current Expenses" shall not include payments made by the Association or the Trustee to any reserve accounts under the Indenture, any expenses of Extraordinary Maintenance and Repair, or any payments of debt service on the Bonds.

Design-Build Contract means the Design-Build Contract between Department and FD/MK dated as of June 3, 1998, and any and all amendments and supplements thereto.

Extraordinary Maintenance and Repair means maintenance, repair, renewal, reconstruction or replacement of any portion or component of the Project of a type which is not normally included as an annually recurring cost in Department's roadway maintenance and repair budgets.

Final Acceptance Date means the date on which final acceptance of the Project by the Department occurs under Section 18.2.1 of the Design-Build Contract.

First Supplemental Indenture means the First Supplemental Indenture entered into by the Association and the Trustee authorizing the issuance of certain Bonds.

Laws, Regulations and Ordinances means all applicable laws, codes, rules, ordinances, restrictions and regulations of the federal, state, regional or any local government (including those resulting from the initiative or referendum process) and judicial or administrative orders.

Opening Date means the first date on which the Project is opened for regular public use.

Person means any individual, public or private corporation, county, district, authority, municipality, political subdivision or other entity of the State or the United States of America, and any corporation, limited liability company, partnership, association, firm, trust, estate, or any other entity whatsoever.

Project Agreement means any of the Comprehensive Agreement, this Memorandum and Assignment, the Contract Documents, the Project Financing Agreement, the Completion Guaranty, the Indenture, the SIB Loan Agreement, the SIB Loan Note, the Contractor Loan Agreement, the Guaranty of Contractor Loan Agreement, the Collateral Assignment, the Continuing Disclosure Agreements and the Bonds issued pursuant to the First Supplemental Indenture; and the term "Project Agreements" means all such agreements and documents in the aggregate. All the foregoing agreements are further defined in the Comprehensive Agreement.

Toll Revenues means all amounts received by or on behalf of the Association from fees, tolls, rates and charges for the privilege of traveling on the Project imposed by the Association pursuant to the Comprehensive Agreement. Toll Revenues excludes revenues and proceeds arising out of or relating to certain rights reserved to the Department under the Comprehensive Agreement.

EXHIBIT L

SCHEDULE OF INITIAL TOLL RATES

INITIAL TOLL RATE SCHEDULE

Mainline Plaza		
1	Passenger Car and 2 Axle Truck or Bus	$1.50
2	3 Axle Truck or Bus	3.00
3	4 Axle Truck	4.00
4	5 Axle Truck	5.00
5	Vehicle With 6 or More Axles	6.00
Laburnum Ramp Plaza	All Vehicles	$0.50

EXHIBIT M

ASSOCIATION ARTICLES AND BYLAWS

ARTICLES OF RESTATEMENT
OF
THE ARTICLES OF INCORPORATION
OF
POCAHONTAS PARKWAY ASSOCIATION*

These Articles of Restatement are filed pursuant to Section 13.1-889 of the Code of Virginia of 1950, as amended:

1. The name of the corporation is Pocahontas Parkway Association, hereinafter referred to as the "Corporation."

2. By unanimous vote of all of the voting directors of the Corporation given at a meeting duly called and held on the 30th day of April, 1998, such directors adopted a resolution to restate its Articles of Incorporation in the form attached hereto as Exhibit A.

3. The Corporation does not have, and has never had, any members.

These Articles of Restatement are executed this 30th day of April, 1998, in the name of the Corporation by its President, who declares under the penalties of perjury that the facts stated herein are true.

POCAHONTAS PARKWAY ASSOCIATES

By: _____
Joseph R. Jenkins, President

0423820.01

RESTATED
ARTICLES OF INCORPORATION
OF
POCAHONTAS PARKWAY ASSOCIATION

ARTICLE 1. Name. The name of the corporation is Pocahontas Parkway Association (hereinafter referred to as the "Corporation").

ARTICLE 2. No Members. The Corporation shall have no members. All voting power, including without limitation the power to vote on amending these Articles of Incorporation, shall be vested in the Board of Directors.

ARTICLE 3. Number and Election of Board of Directors.

A. Number. There shall be seven (7) directors of the Corporation, of whom five (5) shall be voting and two (2) shall be non-voting

B. Election of Directors; Quorum.

(a) Three voting directors shall be elected in three classes, initially ending in 1999, 2000 and 2001, by a majority vote of a quorum of directors. Each elected voting director shall hold office for a three-year term, provided that notwithstanding the expiration of a voting director's term he shall continue to serve until his successor has been appointed and qualifies or until there has been a decrease in the number of voting directors.

(b) The Virginia Commonwealth Transportation Commissioner may appoint two voting directors to serve three-year terms. Initially, one shall serve a term expiring in 2000.

(c) There shall be two non-voting directors, one to be appointed by the Virginia Commonwealth Transportation Commissioner and one by FD/MK Limited Liability Company, each to serve for a one-year term.

(d) A majority of the number of voting directors elected or appointed and serving at the time of any meeting shall constitute a quorum for the transaction of business. The

act of a majority of voting directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. Less than a quorum may adjourn any meeting.

(e) The provisions on appointment of directors may be amended only with the vote or written consent of each appointing authority whose power of appointment is affected by the amendment.

C. Vacancies. Appointments to fill vacancies occurring from time to time on the Board of Directors may be made by a majority vote of the remaining voting directors, except in the case of a vacancy by an appointed director, in which case the vacancy will be filled by the appointing authority.

ARTICLE 4. Purposes of Corporation.

A. The Corporation's purposes are to take all actions necessary or incidental to carry out and to provide for the financing, design, permitting, acquisition, construction, operation, maintenance, repair, reconstruction, renovation, replacement, modification and expansion of transportation facilities and related programs and improvements for the Route 895 Connector, known informally as the Pocahontas Parkway (the "Project"), and extensions thereof, including without limitation, airport connectors, ramps, and interchanges.

B. The Corporation shall not be operated for profit. It may engage only in activities that may be carried on by an organization exempt from federal income tax under Section 115 of the Internal Revenue Code of 1986, as amended (the "Code"). To the extent consistent with Section 115 of the Code, the Corporation may exercise any and all powers conferred upon nonstock corporations by Sections 13.1-826 and -827 of the Virginia Nonstock Corporation Act.

C. No substantial part of the activities of the Corporation shall be, or involve the carrying on of, propaganda or otherwise attempting to influence legislation (except as otherwise permitted by Section 501(h) of the Code). The Corporation shall not participate in, or intervene

in (including the publishing or distribution of statements for), any political campaign on behalf of, or in the opposition to, any candidate for public office.

D. The Corporation shall not engage in any business unrelated to the Project and shall not own any assets other than those related to the Project or otherwise in furtherance of the purposes of the Corporation. The Corporation shall not issue or incur any indebtedness or obligations other than indebtedness and obligations related to the Project, including bonds secured by Project revenues. The Corporation shall maintain its own separate books, records and accounts, shall observe all material formalities of corporate existence (including the maintenance of current minute books) and shall not commingle its funds or other assets with those of any other person.

E. Until such time as all obligations of the Corporation evidenced by bonds secured by Project revenues shall have been satisfied and the lien of any indenture securing such bonds shall have been discharged in accordance with its terms, the Corporation shall not, without the affirmative vote of all of the voting members of the Board of Directors and the consent of the indenture trustee (acting on written instructions of bondholders given in accordance with the terms of such indenture), take any action to:

(i) amend, alter, change or repeal this Article 4 or any provision hereof;

(ii) dissolve or liquidate, in whole or in part, consolidate or merge with or into any other entity or convey, sell or transfer its property or assets substantially as an entirety to any entity, or cause itself to dissolve, windup or liquidate, in whole or in part, except as may be permitted under such indenture;

(iii) engage in any business or activity other than those permitted by these Articles; or

(iv) file a voluntary petition or consent to the filing of an involuntary petition or otherwise initiate or consent to any proceedings seeking an adjudication of insolvency or an order for relief as a debtor under any chapter of the United States Bankruptcy Code, as amended (11 USC §§ 101 et seq.); or file or consent to the filing of any petition seeking any composition, reorganization, readjustment, liquidation, dissolution or similar relief under any present or future federal or state statute or other law relating to bankruptcy, insolvency or other relief for debtors; or seek the appointment of any trustee, receiver, conservator, assignee, sequestrator, custodian, liquidator or other similar official of the Corporation or of all or any substantial part of the properties and assets of the Corporation; or make any general assignment for the benefit of creditors, admit in writing its inability to pay its debts generally as they become due, declare or effect a moratorium on its debts or take any other action in furtherance of, or consent to or acquiesce in, any of the foregoing actions.

ARTICLE 5. Inurement of Earnings and Compensation. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, any director or officer of the Corporation or any person. The Corporation shall be authorized and empowered to pay for or reimburse reasonable expenses incurred by such officer or director related to services rendered to the Corporation, to pay reasonable compensation to any officer or director for service as an officer or director, and to make payments and distributions in furtherance of the purposes set forth in Article 4 hereof.

ARTICLE 6. Director Immunity. In any proceeding brought against an officer or director of the Corporation, the officer or director of the Corporation shall not be liable for any monetary damages exceeding one dollar ($1.00) arising out of any transaction, occurrence or course of conduct, unless in such a proceeding a judgment is entered against the officer or director because of a finding that the act or omission for which the officer or director is adjudged liable is proven to be due to his willful misconduct or a knowing violation of the criminal law.

ARTICLE 7. Dissolution. Upon the dissolution of the Corporation, the Corporation's Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the Corporation, dispose of all assets of the Corporation exclusively to the Virginia Department of Transportation, as an executive branch agency of the Commonwealth of Virginia.

ARTICLE 8. Indemnification. The liability of the directors and officers of the Corporation shall be limited, and the Corporation shall indemnify its directors and officers, as follows:

A. The liability of any director or officer of the Corporation shall be limited or eliminated to the maximum extent permitted by law. Without modifying the foregoing, in any proceeding against a director or an officer of the Corporation such director or officer shall not be liable for any damages arising out of any act, failure to act, transaction, occurrence or course of conduct, unless in such proceeding the director or officer was adjudged to have engaged in willful misconduct or a knowing violation of the criminal law.

B. To the full extent required or permitted by the Virginia Nonstock Corporation Act and any other applicable law, and in the manner thereby prescribed, the Corporation shall indemnify a director or officer of the Corporation who is or was a party to any proceeding by

reason of the fact that he or she is or was such a director or officer or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other profit or nonprofit enterprise. The Corporation shall promptly pay for or reimburse the reasonable expenses, including attorneys' fees, incurred by any such director or officer of the Corporation in connection with any such proceeding (whether or not made a party). Any payment or reimbursement of expense under this Article may be made in advance of final disposition of any such proceeding if a written request is made by such officer or director and delivered to the Corporation accompanied by (i) a written statement of good faith belief that such officer or director is entitled to indemnity by the Corporation, and (ii) a written undertaking, executed personally or on his or her behalf, to repay the amount so paid or reimbursed if after final disposition of such proceeding it is determined that he or she did not meet the applicable standard of conduct. The Board of Directors is hereby empowered, by majority vote of a quorum of disinterested voting directors, to contract in advance to so indemnify any director or officer.

C. The Board of Directors is hereby empowered, by majority vote of a quorum of disinterested voting directors, to cause the Corporation to indemnify or contract in advance to indemnify any person not specified in paragraph B of this Article 8 who was or is a party to any proceeding, by reason of the fact that he or she is or was an employee or agent of the Corporation and was serving at the request of the Corporation as director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other profit or nonprofit enterprise, to the same extent as if such person were specified as one to whom indemnification is granted in paragraph B of this Article 8.

D. The Corporation may purchase and maintain insurance to indemnify it against the whole or any portion of the liability assumed by it in accordance with this Article 8 and may also procure insurance, in such amount as the Board of Directors may determine, on behalf of any

person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other profit or nonprofit enterprise, against any liability asserted against or incurred by any such person in any such capacity or arising from his or her status as such, whether or not the Corporation would have power to indemnify him or her against such liability under the provisions of this Article 8.

E. The provisions of paragraph A of this Article 8 shall be applicable only with respect to acts or failure to act of officers and directors occurring after the effective date of these Articles of Incorporation. All other provisions of this Article 8 shall be applicable to all actions, claims, suits or proceedings commenced after the effective date hereof, whether arising from any action taken or failure to act before or after such adoption. No amendment, modification or repeal of this Article 8 shall diminish any of the limitations or rights provided pursuant to this Article 8 with respect to any claim, issue or matter in any then pending or subsequent proceeding that is based in any material respect on any alleged action or failure to act prior to such amendment, modification or repeal.

F. Reference herein to directors, officers, employees or agents shall include former directors, officers, employees and agents and their respective heirs, executors and administrators.

GIVEN under my hand this 30th day of April, 1998.

President

0294902.08

RESTATED
BYLAWS
OF
POCAHONTAS PARKWAY ASSOCIATION

ARTICLE I
PURPOSE

The Corporation is a nonprofit, nonstock corporation organized to provide for the financing and for performing attendant purposes as set forth in its Articles of Incorporation as an operator of the Pocahontas Parkway pursuant to the Public-Private Transportation Act of 1995.

None of the purposes shall be carried on or conducted for the profit of this Corporation.

The affairs and activities of the Corporation shall be carried out at all times for the purposes and in accordance with the terms set forth in its Articles of Incorporation and these Bylaws, and in conformity with all applicable provisions of the Internal Revenue Code of 1986, as amended, or any corresponding provisions of future Internal Revenue laws, and the regulations pertinent thereto exempting from the definition of income the revenues of nonprofit organizations issuing debt on behalf of the Commonwealth and its political subdivisions.

ARTICLE II
MEMBERS

The Corporation shall have no members.

ARTICLE III
DIRECTORS

3.1 General Powers. The property, affairs and business of the Corporation shall be managed by the Board of Directors and, except as otherwise expressly provided by law, the Articles of Incorporation or these Bylaws, all the powers of the Corporation shall be vested in such Board.

3.2 Number of Directors. There shall be seven (7) directors of the Corporation, of whom five (5) shall be voting and two (2) shall be nonvoting.

3.3 Election of Directors; Quorum.

(a) Three voting directors were initially named in the original Articles of Incorporation and were divided by the Board into three classes with terms expiring in 1999, 2000 and 2001. Three voting directors shall be subsequently elected in three classes by a majority vote of a quorum of the elected directors. Each elected voting director shall hold office for a three-year term, provided that notwithstanding the expiration of a voting director's term he shall continue to serve until his successor has been appointed and qualifies or until there has been a decrease in the number of voting directors.

(b) The Virginia Commonwealth Transportation Commissioner may appoint two voting directors to serve three-year terms. Initially, one shall serve a term expiring in 2000.

(c) There shall be two nonvoting directors, one to be appointed by the Virginia Commonwealth Transportation Commissioner and one to be appointed by FD/MK Limited Liability Company, each to serve for a one-year term.

(d) A majority of the number of voting directors elected or appointed and serving at the time of any meeting shall constitute a quorum for the transaction of business. The act of a majority of voting directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. Less than a quorum may adjourn any meeting.

(e) The provisions on appointment of directors may be amended only with the vote or written consent of each appointing authority whose power of appointment is affected by the amendment.

3.4 Vacancies. Vacancies in any of the elected directorships may be filled by a majority vote of the elected directors. In the case of a vacancy in the position of an appointed director, the vacancy will be filled by the appointing authority.

3.5 Meetings of Directors. An annual meeting of the Board of Directors for the election of directors and the transaction of such other business as may come before the meeting shall be held on the fourth Tuesday in June, if that day is not a legal holiday. If that day is a legal holiday, the annual meeting shall be held on the next succeeding day not a legal holiday. The failure to hold an annual meeting at the time stated in or fixed in accordance with these Bylaws does not affect the validity of any corporate action. Other meetings of the Board of Directors shall be held at places and at times fixed by resolution of the Board, or upon call of the President who is to serve as Chairman of the Board or of a majority of the directors. The Secretary or officer performing the Secretary's duties shall give not less than three (3) days notice by letter, facsimile transmission, telephone or in person of all meetings of the Board of Directors, provided that such notice need not be given of the annual meeting or of regular meetings held at times and places fixed by resolution of the Board. Meetings may be held at any time without notice if all of the directors are present, or if those not present waive notice in writing either before or after the meeting. The notice of meetings of the Board need not state the purpose of the meeting.

Members of the Board of Directors or any committee designated thereby may participate in a regular or special meeting of the Board or such committee by means of a conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other during the meeting, and participation by such means shall constitute presence in person at such meeting.

3.6 Actions by Directors or Committee Without Meeting. Any action which may be taken at a meeting of the directors or of a committee may be taken without a meeting if a consent in writing, setting forth the action, is signed either before or after such action by all of the directors or all of the members of the committee, as the case may be.

3.7 Compensation. By resolution of the Board, a director may be entitled to compensation for his services as a director. Regardless of whether directors are compensated, the Corporation shall pay or reimburse any director for reasonable expenses incurred in the performance of his or her duties as director.

ARTICLE IV
COMMITTEES

4.1 Committees. The Board of Directors may establish such standing or special committees from time to time as it shall deem appropriate to conduct the activities of the Corporation and to advise the Board, and shall define the powers and responsibilities of such committees. The members and chairpersons of all committees shall be appointed by the Board of Directors for a one-year term or until their successors are duly appointed, but shall be subject to removal at any time by vote of a majority of the directors then in office and entitled to vote. No committee appointed by the Board shall consist of fewer than three (3) members. Persons other than directors may be appointed as committee members by the Board of Directors. The voting rights, if any, of committee members other than voting directors shall be specified by the Board of Directors in its action designating such specific powers and responsibilities as may be determined by the Board of Directors, except that no committee shall have the power:

(a) to approve amendments to these Bylaws or the Articles of Incorporation;

(b) to approve any action or exercise any authority requiring the approval of more than a majority of a quorum of the Board of Directors under the laws of the Commonwealth of Virginia, the Articles of Incorporation or these Bylaws;

(c) to take any action for which final authority is reserved to the Corporation or which has been prohibited by resolution of the Board of Directors; or

(d) to take other action which may not be delegated to it under the laws of the Commonwealth of Virginia or under the provisions of the Articles of Incorporation or these Bylaws.

4.2 Meetings. Regular and special meetings of any committee established pursuant to this Article may be called and held subject to the same requirements with respect to time, place and notice as are specified in these Bylaws for regular and special meetings of the Board of Directors.

4.3 Quorum. A majority of the members of any committee serving at the time of any meeting shall constitute a quorum for the transaction of business at such meeting.

4.4 Resignation. Any member of a committee may resign at any time by giving written notice of his intention to do so to the President or the Secretary of the Corporation.

4.5 Vacancies. Any vacancy occurring in a committee resulting from any cause whatsoever may be filled by the Board of Directors.

ARTICLE V
OFFICERS

5.1 Election of Officers; Terms. The officers of the Corporation shall consist of a President, a Secretary and a Treasurer. Other officers may from time to time be elected by the Board of Directors. All officers shall be members of the Board of Directors. All officers shall hold office until the next annual meeting of the Board of Directors or until their successors are elected. No two or more offices may be held by the same person.

5.2 Removal of Officers; Vacancies. Any officer of the Corporation may be removed summarily, with or without cause, at any time, by the Board of Directors. Vacancies may be filled by the Board of Directors.

5.3 Duties. The officers of the Corporation shall have such duties as generally pertain to their offices, respectively, as well as such powers and duties as are prescribed by law or are hereinafter provided or as from time to time shall be conferred by the Board of Directors. The Board of Directors may require any officer to give such bond for the faithful performance of his or her duties as the Board may see fit, with the cost of such bond being borne by the Corporation.

5.4 Duties of the President. The President shall be the chief executive officer of the Corporation and shall be primarily responsible for the implementation of policies of the Board of Directors. The President shall have general management and direction of the Corporation subject only to the ultimate authority of the Board of Directors. Except as otherwise provided in these Bylaws or in the resolutions establishing such committees, he or she shall be ex officio a member of all committees of the Board of Directors. The President shall serve as Chairman of the Board and shall preside at all corporate meetings. The President may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts or other instruments except in cases where the signing and the execution thereof shall be expressly delegated by the Board of Directors or by

these Bylaws to some other officer or agent of the Corporation or shall be required by law otherwise to be signed or executed. In addition, he or she shall perform all duties incident to the office of the President and Chairman of the Board and such other duties as from time to time may be designated to him or her by the Board of Directors.

5.5 Duties of the Treasurer. The Treasurer shall have charge of and be responsible for all funds, securities, receipts and disbursements of the Corporation, and shall deposit all monies and securities of the Corporation in such banks and depositories as shall be designated by the Board of Directors. The Treasurer shall be responsible for (i) maintaining adequate financial accounts and records in accordance with generally accepted accounting practices; (ii) preparing appropriate operating budgets and financial statements; (iii) reporting on the financial status of the Corporation; (iv) preparing and filing all tax returns required by law; and (v) performing all duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the Board of Directors or the President. The Treasurer may sign and execute in the name of the Corporation deeds, mortgages, bonds, contracts or other instruments, except in cases where the signing and the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law or otherwise to be signed or executed.

5.6 Duties of the Secretary. The Secretary shall act as secretary of all meetings of the Board of Directors of the Corporation. When requested, he or she shall also act as a secretary of the meetings of the committees of the Board. The Secretary shall keep and preserve the minutes of all meetings in permanent books. The Secretary shall see that all notices required to be given by the Corporation are duly given and served; shall have custody of the seal of the Corporation and shall affix the seal or cause it to be affixed to all documents the execution of which on behalf of the Corporation under its corporate seal is duly authorized in accordance with law or the provisions of these Bylaws; shall have custody of all deeds, leases, contracts and other important corporate documents; shall have charge of the books, records and papers of the Corporation relating to its organization and management as a corporation; shall see that all reports, statements and other documents required by law (except tax returns) are properly filed, including the filing of any reports with the Virginia Office of Consumer Affairs; shall have charge of and be responsible for maintaining a record of all donors and the amount of their contributions; shall be responsible for the written acknowledgment of all contributions; and shall in general perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the Board of Directors or the President.

5.7 Delegation. The President, Secretary and Treasurer may delegate the administrative performance of such duties described above for such officer, but may not delegate the responsibility or the performance of such duties.

5.8 Compensation. By resolution of the Board, an officer may be entitled to compensation for his services as an officer. Regardless of whether officers are compensated, the Corporation may pay or reimburse any officer for reasonable expenses incurred in the performance of his or her duties as an officer. The Corporation shall not contract with any officer for services to be rendered to the Corporation by such officer or any entity with which such officer is legally affiliated.

ARTICLE VI
CORPORATE RECORDS

6.1 Minutes of Meetings and Records of Actions Taken Without Meetings. The Corporation shall keep as permanent records minutes of all meetings of its Board of Directors and all actions taken by a committee of the Board of Directors, as well as records of actions taken without meetings.

6.2 Accounting Records. The Corporation shall maintain appropriate accounting records.

6.3 Form of Records. The Corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

6.4 Access to Records. All records of the Corporation shall be opened to inspection at reasonable times by any director and the Virginia Department of Transportation. The financial records of the Corporation may be audited by the Commonwealth of Virginia as it determines appropriate with results of such audit being shared with the Board of Directors.

ARTICLE VII
MISCELLANEOUS PROVISIONS

7.1 Seal. The seal of the Corporation shall consist of a flat-faced circular die, of which there may be any number of counterparts, on which there shall be engraved the word "Seal" and the name of the Corporation.

7.2 Fiscal Year. The fiscal year of the Corporation shall end on June 30 each year, and shall consist of such accounting periods as may be determined by the Board of Directors.

7.3 Checks, Notes and Drafts. Checks, notes, drafts and other orders for the payment of money shall be signed by such persons as the Board of Directors from time to time may authorize. When the Board of Directors so authorizes, however, the signature of any such person may be a facsimile.

7.4 Amendment of Articles of Incorporation and Bylaws. The Corporation's Articles of Incorporation and these Bylaws may be amended or altered at a meeting of the Board of Directors by a resolution adopted by at least a majority of the number of voting directors fixed by these Bylaws, except as provided otherwise in Article 3, Section B(e) of the Articles of Incorporation and Section 3.3(e) hereof.

7.5 Voting of Stock Held. Unless otherwise provided by resolution of the Board of Directors, the President may from time to time appoint an attorney or attorneys or agent or agents of this Corporation, in the name and on behalf of this Corporation, to cast the vote which this Corporation may be entitled to cast as a stockholder or otherwise in any other corporation, any of whose stock or securities may be held by this Corporation, at meetings of the holders of the stock or other securities as may be held by this Corporation, or to consent in writing to any action by any such other corporation; and the President shall instruct the person or persons so appointed as to the manner of casting such votes or giving such consent and may execute or cause to be executed on behalf of this Corporation, and under its corporate seal or otherwise, such written proxies, consents, waivers or other instruments as may be necessary or proper. In lieu of such appointment the President may himself or herself attend any meetings of the holders of stock or other securities and exercise any or all powers of this Corporation as the holder of such stock or other securities of such other corporation.

ARTICLE VIII
RULES OF PROCEDURE

The rules of procedure at meetings of the Board shall be the rules contained in Roberts' Rules of Order on Parliamentary Procedure, as amended, so far as applicable and when not inconsistent with these Bylaws, the Articles of Incorporation or any resolution of the Board.

These Bylaws were duly adopted by the Board of Directors of this Corporation on the 30th day of April, 1998.

Bruce A. Kay
Secretary

0294912.09

Appendix D
to Consent to Assignment

Copy of the ETC Agreement

THIS ELECTRONIC TOLL COLLECTION (ETC) AGREEMENT (this "Agreement") is made and entered into this 4 day of August 2006, by and between **VIRGINIA DEPARTMENT OF TRANSPORTATION** ("VDOT") and Transurban (895) LLC (the "Participating Agency" or "Participant").

WHEREAS, VDOT is the owner and operator of the Virginia Smart Tag Toll Collection System;

WHEREAS, the Participant is the owner and operator of the Pocahontas Parkway, a privately owned and operated toll road;

WHEREAS, the parties have installed and operate compatible electronic toll collection systems for their respective roadways;

WHEREAS, VDOT is responsible for providing ETC Services ("ETC Services") for the Participating Agencies. The Participant and VDOT desire to enter into this Agreement to provide for, among other things, ETC Service as it relates to the Pocahontas Parkway; and

WHEREAS, VDOT has joined the E-ZPass Interagency Group (IAG) on behalf of itself and other Participating Agencies. The E-ZPass Reciprocity Agreement is attached hereto as Appendix A and is considered part of this ETC Agreement;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, VDOT and the Participant hereby agree as follows:

ARTICLE 1 – DEFINITIONS

For purposes of this Agreement, the terms set fort below shall have the meanings set forth beside them.

Authorized Department Representative	- Person or officer duly authorized to act on behalf of VDOT
Authorized Participant Representative	- Person or officer duly authorized to act on behalf of the Participant
ETC	- Electronic Toll Collection
ETC Services	- All of those services necessary for the operation of an electronic toll collection system
ETC Services Agreement	- The Agreement between VDOT and the Participant for the provision of electronic toll collection services
E-ZPass	- Trademark for regional ETC system operated by an Interagency Group (IAG) of participants
E-ZPass Reciprocity Agreement	- Agreement requiring reciprocity among Agencies participating in the E-ZPass ETC system
Fiscal Year	- Any 12 month period beginning July 1st one year and ending June 30th the following year
Participant	- Transurban - 895
Smart Tag	- VDOT trademark for ETC
STCSC	- Smart Tag Customer Service Center
VDOT	- Virginia Department of Transportation

ARTICLE 2 – ETC SERVICES

Section 2.1 – Provision of ETC Service

By prior understanding of the parties, VDOT is responsible for certain services for both the Participant and VDOT with respect to the administration and operation of the ETC systems on the Pocahontas Parkway and other Smart Tag facilities, including the customer services, distribution of transponders and the collection of tolls (collectively, "ETC Services) for the the Pocahontas Parkway and other Smart Tag facilities through such transponders and the operation of Smart Tag Customer Service Centers ("STCSC") (as defined in Section 2.2).

All Participant policies and procedures that affect VDOT's Smart Tag Customer Service Center Operations are subject to review and approval by VDOT. To the extent that any of Participant's policies and procedures materially and adversely affect VDOT's Smart Tag Customer Service Center Operations, VDOT and Participant shall engage in good faith discussions regarding the implementation of such policies and procedures, including the cure by Participant of any adverse financial affect on VDOT or the Smart Tag Customer Service Center Operations.

By its execution hereof, VDOT shall be deemed to have approved Participant's existing policies and procedures.

Section 2.2 – Smart Tag Customer Service Centers

VDOT shall be responsible for the establishment, administration, and operation of one or more walk-in centers that will issue and provide services relating to the ETC system administration, prepaid account maintenance, and distribution of transponders ("Service Centers") to be used for the ETC systems for the Participant and VDOT facilities. VDOT may contract with a private company ("ETC Servicer") for the provision of such services ("ETC Services") through an ETC Services Agreement. Unless otherwise provided herein, VDOT shall provide the necessary data and communication lines, office supplies and equipment to support the Service Center(s). VDOT will provide a minimum of seven (7) days advance notice to the Participant of any planned changes to any STCSC location, toll operations and service requirements that materially affect Participant and will, with good faith cooperation, seek the Participant's comments on any such changes and incorporate any mutually agreeable proposals.

Section 2.3 – ETC Prepaid Account

Notwithstanding anything contained in the agreement, VDOT and the Participant acknowledge that:

(i) VDOT has established, in its name, an ETC Prepaid Account ("Account") for purposes of collecting prepaid tolls, membership fees and transponder fees;

(ii) VDOT shall be the sole owner of the Account and shall have the exclusive right, power and authority, in the exclusion of the Participant and all other persons, to exercise sole dominion and control of the Account;

(iii) The Participant shall have no right, title or interest in and to the Account.

VDOT agrees, except in cases of system failure, to initiate payment by wire transfer to the Participant on or before the close of business of the next succeeding VDOT business day, an amount equal to the aggregate tolls and any applicable membership fees posted to patron accounts, less payment of the transaction fee provided as applicable. In the event outstanding bond covenants prohibit netting of the transaction fee from the electronic toll receipts, the transaction fee must be paid upon receipt of an Invoice for Services.

Section 2.4 – Invoices for Services

Any fees for any services including, but not limited to, ETC Services provided by VDOT to the Participant upon request or with the agreement of the other party that are not otherwise paid as provided herein, shall be invoiced to the other party and paid in compliance with the laws of the Commonwealth of Virginia.

Section 2.5 – Disputed Invoices

If either VDOT or the Participant disputes any invoice or payment transaction reported by the ETC Servicer, they shall give prompt notice to the ETC Servicer and each other. Participant shall only reimburse questioned amounts to VDOT upon satisfactory resolution, for any amounts in dispute.

Section 2.6 – Payments by the ETC Servicer

In the event that pursuant to the ETC Services Agreement, the ETC Servicer is obligated to pay VDOT lost revenues or any other sum resulting from the default in or the non-performance of its duties and obligations under the ETC Services Agreement, VDOT shall promptly remit to the Participant its *pro rata* portion of such sums. Such payment shall be based on the product of (i) the historical ratio of the Pocahontas Parkway Transactions to VDOT Transactions over the applicable time period in question for the immediately preceding year (taking into account holiday and weekend travel days), multiplied by (ii) the average percentage traffic increase at the Pocahontas Parkway during the immediately preceding twelve month period; provided that if by reason of catastrophic event, the foregoing calculation is not a fair approximation of the traffic flow for the Pocahontas Parkway for the period in question, then VDOT shall remit such other amount as Participant can establish to VDOT's reasonable satisfaction. Payment to the Participant by VDOT shall be limited to revenues lost by Participant or other sums that Participant can show as a direct loss from any such non-performance.

ARTICLE 3 – ETC SYSTEMS

Section 3.1 – Independent Systems

The Participant operates an ETC system which is independent of but compatible with the VDOT system and uses the same type of transponder.

The Participant shall be responsible for ensuring that its ETC system provides ETC transaction data in the format required by the STCSC. VDOT shall provide data formats, documentation, interface requirements and any other necessary design information to the Participant in a timely manner and at no additional cost to the Participant. Transaction processing problems which arise from the Participant not meeting these requirements shall be resolved at the direction of VDOT on a time plus materials basis. This information is subject to change with reasonable notice from VDOT. Participant will be required to conform to the new interface requirements at no cost to VDOT or Participant may elect to not install new interface requirements and withdraw from the ETC Agreement.

VDOT and the Participant shall each continue to be responsible for the maintenance, repair, and operation of all necessary lane and computer equipment for their respective ETC systems. Specifically, the Participant shall be responsible for the maintenance, repair and operation of all necessary lane and computer equipment for its ETC system through and including its host computer. In no event shall VDOT have any liability to the Participant for any losses suffered due to equipment failure or error in the Participant's ETC system from the lane level through the Participant's host computer. VDOT shall be responsible for the maintenance, repair and operation of its ETC system commencing from the Participant's host router and extending through and including telephone lines, routers, black boxes and the STCSC. Should VDOT's failure to properly maintain, repair and operate its ETC system and the STCSC cause a loss of revenue to the Participant, VDOT shall reimburse the Participant therefor and for Participant's direct costs associated therewith within 14 days after the Participant shall have given VDOT written notice. Such written notice shall include adequate and detailed documentation of such lost revenues and costs. Neither party shall have any liability to the other party for consequential damages.

Section 3.2 – Testing Procedures and Results

VDOT shall be provided the opportunity to participate in the installation of upgrades or other modifications to the Participant's ETC system, as requested. The Participant may participate in the installation of upgrades or other modifications to VDOT's STCSC system.

In such event, each party will provide proposed test schedules and scripts for such upgrades or other modifications to the other party and the STCSC at least 60 days in advance of testing. In the case of upgrades or modifications to Participant's ETC system, upon mutual agreement VDOT may require additional tests to be undertaken at the Participant's expense in order to confirm the accuracy and reliability in all aspects of processing relating to ETC transactions. Copies of test results shall be made available to the other party and the STCSC promptly. VDOT

will participate in acceptance testing and must approve testing prior to processing of live ETC traffic through the STCSC.

Section 3.3 – Modifications to Systems

As equipment changes, modifications or upgrades occur to the ETC systems, the Participant shall use reasonable efforts to cause its ETC equipment used on its toll facility to be compatible with that used by VDOT on its other ETC facilities. The Participant will be responsible for any and all system maintenance, changes, modifications or upgrades to its ETC equipment or operations. Any changes, modifications or upgrades to any of the Participant's ETC equipment or other system modifications that may impact VDOT's ETC operations in any material respect shall be compatible with the VDOT ETC operations. Either party shall notify the other in writing at least 90 days in advance of any changes or modification to such party's ETC system equipment that may affect the other's ETC system equipment or operations in any material respect.

VDOT will exercise due care and diligence in planning and implementing modifications, upgrades and associated testing of its ETC system at levels which are reasonable given the schedule, scope and budget for the ETC system and will not exceed what is considered customary and reasonable for hardware and software processing systems. However, there is no guarantee against adverse impacts to the performance of the hardware or software in Participant's or others' systems. While precautions will be taken by VDOT to help mitigate the risk of occurrence of such adverse impacts, VDOT shall not, unless it is in breach of its duty of due care and diligence, be financially responsible for the occurrence of adverse impact to the Participant or other third parties affected during such modifications, upgrades and associated testing.

Section 3.4 – System Performance

Both the Participant and VDOT shall report within 48 business hours any system failure or degradation that may affect ETC operations. In the event that the Participant is unable to send Smart Tag transactions for periods in excess of 24 hours, the Participant must notify the Manager of the STCSC prior to sending any backlogged Smart Tag transactions. If the STCSC is unable to process Smart Tag or E-ZPass transactions for the Participant for any period in excess of 24 hours, VDOT shall notify the Participant within 48 business hours of such fact.

Any Smart Tag transactions not sent within 60 business days of occurrence are subject to deletion from the patron's account and related revenue may not be recorded or transferred unless the delay is due to failure by VDOT, in which case the related revenue shall promptly be transferred to the Participant.

Section 3.5 – Disputed Transactions

Each business day, the Participant will forward by telecopy or e-mail to VDOT via the STCSC a report listing Smart Tag transactions by lane number from the previous day or weekend, as applicable. Each business day VDOT will cause the STCSC, via telecopy or e-mail, to send the

Participant a disbursement report reflecting Smart Tag and E-ZPass transaction revenue credited to Participant by lane number.

At any time the Participant Smart Tag and E-ZPass revenue reflected in the disbursement report is out of balance with Participant's reported Smart Tag and E-ZPass transactions by $50 or more for any 3 consecutive days, the Participant will notify the STCSC. STCSC will provide a detailed disbursement file within 5 business days of Participant's notification. The Participant will compare the detailed disbursement report to its detailed audit and provide details regarding the disputed transactions sufficient to update the patron accounts. If the Participant cannot provide detail sufficient to update the patron accounts within 20 business days of the occurrence of the transactions, those transactions will not be charged to patron accounts and will not result in revenue to the facility. The Participant will send the detailed data to the STCSC with comparisons of transactions to include the transaction sequence number(s) and the acknowledgement verification by the ETC system.

E-ZPass transaction/revenue disputes will be resolved on a monthly basis. The STCSC will resolve disputes that are recognized and/or identified as valid by adjusting or offsetting the funds that are owed to the Participant in a subsequent transfer. Any Participant's E-ZPass transactions rejected by their respective home agency will be identified in a report, which will be communicated to the Participant. Rejected transactions will be handled according to documented or generally accepted E-ZPass reconciliation procedures.

ARTICLE 4 - PAYMENT TERMS

Section 4.1 – Transaction Fee

Participant will be responsible for paying a transaction processing fee ("Transaction Fee") per electronic toll transaction. The transaction fee is intended to cover Participant's share of VDOT's total annual ETC expenses and shall be full compensation for VDOT to process tolls electronically and service the Participant's ETC accounts, based on transactions transmitted electronically to the STCSC. The ETC Servicer will manage all responsibilities associated with collection and transmission of revenue back to the Participant.

It is mutually agreed that the transaction fee will cover all of VDOT's cost of operation, including providing and servicing transponders, operation of the STCSC, capital, and other costs associated with the collection of tolls for the Participant. However, VDOT, subject to bond covenants and the affirmative agreement of Participant to right of offset, reserves any rights it may have, if any, to off set against amounts to be transferred from the Account hereunder, any amount due to VDOT pursuant to any final judgment rendered against the Participant in favor of VDOT. VDOT agrees, and the Participant acknowledges, that the agreement to transfer Participant's tolls and any applicable membership fees to the Account is irrevocable unless amended, modified or waived by written agreement of both parties.

Section 4.2 – Basis for Transaction Fee

The Transaction Fee shall be based on the following calculation:

Total ETC costs
Total prior calendar year ETC transactions

> Total ETC operational costs shall be based on the sum of the current budgeted cost to VDOT for operating the statewide ETC system, current amortized capital costs allocated to the statewide ETC system, and the annual E-ZPass membership dues, less the annual amount collected for Smart Tag account maintenance fees and other miscellaneous customer charges (e.g., lost transponder replacement fees). In the event that the transaction fees collected are either less than or in excess of the actual budget for the year calculated, the deficiency or excess will then be applied to adjust the next year's budget prior to the new calculation.

The total prior calendar year's ETC transactions shall be based on the total number of ETC transactions recorded on all participating facilities. Annually, but not later than March 1st, VDOT shall provide written notice to Participant of the per transaction fee to be charged in the next fiscal year.

ARTICLE 5 – TERM

The term of this Agreement shall commence upon the date of this Agreement (the "Commencement Date"), and shall terminate on that date which is the earlier to occur of

(i) the date on which the ETC Servicer is no longer providing services pursuant to the ETC Services Agreement, or in connection with the renegotiation of the current ETC Services Agreement, unless extended by mutual agreement of the parties in connection with the engagement of a substitute ETC Servicer, or the renegotiation of the current ETC Services Agreement.
(ii) the date on which this Agreement is terminated by either party, or
(iii) June 30, 2007, subject to renewal beyond that term by successive one year extensions of the term unless and until terminated by written notice received by the other party at least 90 days prior to the end of the term or extended period at issue.

In order to insure continuity of ETC Services to the Participant, VDOT agrees that if the ETC Services Agreement shall for any reason be terminated, or is materially changed or renegotiated, VDOT shall make a good faith attempt (i) in the case where the ETC Services Agreement is materially changed or renegotiated or a substitute ETC Servicer is engaged by VDOT, to give the Participant the opportunity to obtain ETC Services from the current ETC Servicer or such substitute Servicer, as appropriate, under terms substantially the same as those set forth in the ETC Services Agreement and this Agreement pursuant to an amendment to this Agreement or a separate agreement, or (ii) in the case where VDOT is

performing ETC Services for itself, to make ETC Services available to the Participant under terms substantially the same as those set forth in the ETC Services Agreement and this Agreement.

ARTICLE 6 – OPERATIONS

Section 6.1 – Standard Operational Procedures

VDOT shall ensure the establishment and maintenance of standard operating procedures for ETC Services. Once such initial standard operating procedures have been established they shall be attached hereto as Appendix B. The Participant agrees to comply with all such procedures should they decide to maintain a STCSC independently of VDOT.

Section 6.2 – Changes in Operational Procedures

Any anticipated changes that materially affect operating procedures shall be presented and discussed at liaison meetings. VDOT will, in good faith cooperation, try to accommodate changes proposed by the Participant. However, VDOT has sole approval authority to amend operational procedures.

ARTICLE 7 – RESPONSIBILITIES OF VDOT

Section 7.1 – Generally

VDOT shall use commercially reasonable efforts to cause the ETC Servicer to perform its duties and obligations in accordance with the approved operating procedures. If the Participant gives VDOT a written notice stating that the ETC Servicer is not performing its duties and obligations, and specifying the reasons, VDOT shall promptly give the ETC Servicer notice to such effect and request appropriate action. VDOT shall include the Participant in all decisions relating to any such situation. The parties acknowledge that it is not necessary for Participant to be a party to the ETC Services Agreement, provided that VDOT shall be obligated to provide all ETC Services hereunder.

Section 7.2 – Notices

VDOT shall promptly notify the Participant of all changes in ETC Services that are anticipated to materially affect Participant's operations, including with respect to E-ZPass and the E-ZPass Reciprocity Agreement.

ARTICLE 8 – RESPONSIBILITIES OF PARTICIPANT

Section 8.1 – Generally

The Participant shall use commercially reasonable efforts to maintain their ETC system to perform in accordance with the approved operating procedures. If VDOT gives the Participant a written notice stating that their ETC system is not operating in accordance with approved operating procedures, and specifying the reasons, the Participant shall promptly initiate appropriate corrective action. The Participant shall include VDOT in all decisions relating to any such situation. The Participant will take no actions that violate or affect any of the terms of the E-ZPass Reciprocity Agreement that is attached and incorporated as part of this agreement.

Section 8.2 – Toll Rate Changes

The Participant is exclusively authorized to make and be responsible for any toll rate changes at Participant's toll facilities in accordance with applicable law. Participant's toll rate changes shall be communicated to VDOT and the ETC Servicer at least fifteen (15) business days prior to implementation to allow for modifications to the ETC systems and related changes and modifications.

Section 8.3 – Notices

The Participant shall notify VDOT of all changes in their ETC systems that are anticipated to materially affect VDOT and/or ETC operations.

ARTICLE 9 – MARKETING

VDOT and the Participant shall coordinate marketing for the ETC system of toll collections. VDOT and the Participant shall mutually determine a marketing plan. VDOT will, in good faith cooperation, include the Participant in its marketing efforts. However, either party may implement, at its own cost, supplemental marketing efforts for its own roadway which are in addition to those provided by the mutually agreed upon marketing plan. The Participant shall be provided usage of, and is hereby granted a license to use, the "Smart Tag" and "E-ZPass" logos at no charge for operational and marketing purposes and VDOT represents and covenants that it has lawful authority to grant such license; provided that VDOT shall retain the right of prior approval of any such use, such approval not to be unreasonably withheld, conditioned or delayed.

ARTICLE 10 – VIRGINIA TOLL FACILITIES GROUP; LIAISON; MEETINGS

Each of VDOT and the Participant shall designate a person and the Participant will also designate an alternate whose responsibility shall be to meet periodically in order to coordinate

areas of mutual concern and interest to the ETC systems for both the Participant and VDOT, including the Service Centers. Together with others appointed by agencies or bodies for which VDOT is providing ETC Services (such others are "Other Participants"), this group shall comprise the "Virginia Toll Facilities Group" (the "VTFG").

The primary purpose of VTFG meetings shall be to discuss issues related to ETC Services maintenance, improvement, coordination and other issues of mutual interest to the VTFG, including VDOT's ETC budget (for purposes of calculating the Transaction Fee) and the selection and performance of the ETC Servicer. VDOT shall be responsible for coordinating the meetings, which shall be held not less often than quarterly.

The VTFG shall have the responsibility for advising VDOT and the various Participants with respect to ETC systems and performance in Virginia, shall oversee the implementation and performance of ETC systems but shall be an advisory body that may not bind or commit any of VDOT or the various Participants except by duly authorized express delegation for such purpose.

ARTICLE 11 - DISPUTE RESOLUTION

Any dispute that may arise between VDOT and the Participant shall be mutually resolved through the best efforts and good faith negotiations between the Authorized VDOT Representative and Authorized Participant Representative. In conducting such negotiations, VDOT and the Participant recognize that in drafting this Agreement, it is impracticable to make provisions for every contingency that may arise during its term. Accordingly, in order to achieve the resolution of any dispute concerning matters for which the Agreement provides no clear guidance, VDOT and the Participant concur that this Agreement imposes a duty to negotiate in good faith.

ARTICLE 12 - DEFAULT

Section 12.1 – Default Generally

Failure by either VDOT or Participant to fulfill their respective responsibilities set forth herein shall give rise to an event of default under the terms of this Agreement. Following upon appropriate notice of default, and failure to cure within the agreed upon period, the Agreement may be terminated in accordance with Section 12.2 or Section 12.3.

Section 12.2 - Termination by Participant

Both Parties shall determine a mutually agreeable cure period. If the Parties cannot reach agreement on what constitutes a reasonable cure period then VDOT shall make the determination, taking into account the corrective measures to be instituted promptly and pursued diligently by the defaulting Party, except for payments from the Account under Section 2.3 as to which Participant may allow a VDOT cure period in exceptional cases. .

Following expiration of the cure period, unless extended by mutual agreement, the Participant shall have the right to terminate this Agreement upon the occurrence of any of the following events:

(i) A default by VDOT to perform its duties or obligations hereunder or to cause the ETC Servicer to perform its duties or obligations under the ETC Services Agreement; or

(ii) If the Participant determines that the transaction fee meets or exceeds a level that adversely affects the Participant's operating budget.

Section 12.3 - Termination by VDOT

Both Parties shall determine a mutually agreeable cure period. If Parties cannot reach agreement on what constitutes a reasonable cure period then VDOT shall make the determination, taking into account the corrective measures to be instituted promptly and pursued diligently by the defaulting Party; provided that no cure period shall be less than 60 days. Following expiration of the cure period provided, unless extended by mutual agreement, VDOT shall have the right to terminate this Agreement upon the occurrence of a default by the Participant in the performance of its duties or obligations under this Agreement, including Responsibilities outlined in Article 8.

ARTICLE 13 - MISCELLANEOUS

Section 13.1 – Waivers, Modifications and Amendments

No waiver, modification, or amendment of any term, condition or provision of this Agreement shall be valid or of any force or effect unless made in writing and signed by both VDOT and the Participant. The effect of any such change shall be limited to the extent specified and agreed-to by VDOT and the Participant, as evidenced by signatures of duly appointed officers of each of the parties.

Section 13.2 - Captions

Captions, headings, cover pages and tables of contents contained in this agreement are inserted for convenience of reference only and in no way define, limit or prescribe the scope, intent or meaning of any provisions of this Agreement. All appendices, exhibits, or schedules attached hereto are hereby incorporated herein and made a part of this Agreement.

Section 13.3 - Notices

All notices shall be in writing and shall be delivered personally, by telecopy, or by registered or certified mail, return receipt requested, addressed as follows:

Participant Mailing Address	VDOT Mailing Address
Regional Operations Manager Transurban (895) LLC PO Box 7693 Richmond, VA, 23231 Telephone: (804) 236 3751 Facsimile: (804) 795 1782	Commonwealth Transportation Commissioner Virginia Department of Transportation 1401 East Broad Street Richmond, Virginia 23219 Attention: Commissioner Telecopier: 804-780-6250

Section 13.4 - Entire Agreement

This Agreement constitutes the entire agreement between VDOT and the Participant concerning the subject matter hereof and supersedes all prior negotiations, representations, and agreements about them, either oral or written.

Section 13.5 - Force Majeure/Emergency

In case by reason of force majeure, either party shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then, provided such party shall give notice and full particulars of such force majeure in writing to the other within a reasonable time after occurrence of the event or cause relied on, the obligations of such party so far as they are affected by such force majeure, shall be suspended during the continuance of the inability then claimed, which shall include a reasonable time for the removal of the effect thereof, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. Any time period specified herein for the performance by such party of an obligation shall be appropriately adjusted and extended without the necessity for any amendment to this Agreement if a force majeure event occurs.

IN WITNESS THEREOF, this Agreement has been entered into as of the first date set forth above, by the duly authorized officers of the parties hereto.

PARTICIPANT **TRANSURBAN (895) LLC**	**VIRGINIA DEPARTMENT OF** **TRANSPORTATION**
By: _____	By: Barbara W Reese for Gregory A. Whirley
Title: Regional Operations Manager	Title: Chief Financial Officer
Date: August 4, 2006	Date: August 7, 2006

POCAHONTAS PARKWAY
THE GREATER RICHMOND CONNECTOR

June 27, 2006

InTranS Group, Inc.
55 Cherry Lane
Carle Place, New York 11514

Attention: Joseph A. Barba, Executive Vice President

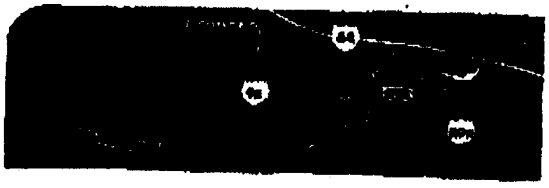
Re: Pocahontas Parkway/Consent to Assignment.

Dear Mr. Barba:

Reference is made to that certain Maintenance Service Agreement (No. 100), dated May 19, 2005 (the "Maintenance Service Agreement"), between InTranS Group ("Intrans") and Pocahontas Parkway Association ("PPA").

Pursuant to an asset purchase agreement (the "Purchase Agreement") to be entered into between PPA and Transurban (895) LLC (the "New Operator"), PPA intends to sell, assign and convey to the New Operator, and the New Operator intends to acquire from PPA, all of the assets, properties, rights and interests related to the management, operation, and maintenance of, and the collection of tolls on, the Pocahontas Parkway. In connection with such acquisition, PPA desires to assign to the New Operator all of its rights and obligations (the "Rights and Obligations") under the Maintenance Service Agreement. The New Operator will agree to assume all obligations of PPA under the Maintenance Service Agreement pursuant to an assignment and assumption to be entered into between PPA and the New Operator at the time the acquisition is consummated.

Pursuant to Section 16 of the Maintenance Service Agreement, PPA seeks the written consent of Intrans to assign the Rights and Obligations to the New Operator. Please indicate Intrans' consent to such assignment by signing and returning a copy of this letter to me at your earliest convenience.



Pocahontas Parkway Association
P.O. Box 35033, Richmond, VA 23235 Telephone (804) 440-PKWY www.pocahontasparkway.com

We appreciate your prompt attention to this matter.

Very truly yours,

POCAHONTAS PARKWAY ASSOCIATION

By: James W. Atwell
James W. Atwell
President

ACKNOWLEDGED AND AGREED:

INTRANS GROUP, INC.

By: Joseph A. Barba
Name:
Title: Executive VP

InTransGroup

June 2, 2006

Mr. James Atwell
President
Pocahontas Parkway Association
P.O. Box 7693
Richmond, VA 23231

RE: LICENSING; PROPRIETARY COMPUTER PROGRAMS

Dear Mr. Atwell:

InTranS hereby grants to PPTA an irrevocable, perpetual, fully-paid-up and royalty-free license to use and operate all proprietary computer programs, provided under this Contract for the use or operation of the Project. Such license may not be transferred, assigned, or sub-licensed to any other Person (other than any successor of PPTA for use for the Toll Road) without the prior written consent of InTranS.

Sincerely,

Eric Boulard
President & CEO

InTrans Group, Inc.
55 Cherry Lane Carle Place, New York 11514 Tel (516) 484-3333 Fax (516) 484-5161

June 27, 2006

InTranS Group, LLC.
55 Cherry Lane
Carle Place, New York 11514
Attention: Joseph A. Barba, Executive Vice President
Facsimile: (516) 484-5161

Re: Pocahontas Parkway/Consent to Assignment

Dear Mr. Barba:

Reference is made to that certain Escrow Agreement dated May 4, 2004 (the "Escrow Agreement") between the Virginia Department of Transportation ("VDOT") and InTranS Group LLC ("Intrans").

Pursuant to an asset purchase agreement (the "Purchase Agreement") to be entered into between Pocahontas Parkway Association ("PPA") and Transurban (895) LLC (the "New Operator"), PPA intends to sell, assign and convey to the New Operator, and the New Operator intends to acquire from PPA, all of the assets, properties, rights and interests related to the management, operation, and maintenance of, and the collection of tolls on, the Pocahontas Parkway. In connection with such acquisition, VDOT desires to assign to the New Operator all of its rights and obligations for all proprietary software and computer programs and access to all related source codes to the extent set forth in the Escrow Agreement. The New Operator will agree to assume all obligations of VDOT under the Escrow Agreement pursuant to an assignment and assumption to be entered into between VDOT and the New Operator at the time the acquisition is consummated.

By signing below you hereby consent to the foregoing assignment of the Rights and Obligations and the Intellectual Property to the extent set forth in the Escrow Agreement to the New Operator set forth above.

Very truly yours,

VIRGINIA DEPARTMENT OF TRANSPORTATION, a department of the Commonwealth of Virginia

By: _____

Name: Deborah Brown

Title: Director, Innovative Finance & Revenue operations

ACKNOWLEDGED AND AGREED:

INTRANS GROUP, LLC

By: _____

Name:

Title:

US_EAST:160035782.3

15843-3 VPC/VPC

Very truly yours,

VIRGINIA DEPARTMENT OF TRANSPORTATION, a department of the Commonwealth of Virginia

By: _____

Name:

Title:

ACKNOWLEDGED AND AGREED:

INTRANS GROUP, LLC

By:

Name: Joseph Barba

Title: Executive Vice President

US_EAST:160035782.3

15843-3 VPC/VPC

COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1401 EAST BROAD STREET
RICHMOND, 23219-2000

GREGORY A. WHIRLEY
ACTING COMMISSIONER

June 22, 2006

FD/MK Limited Liability Company
895 Connector Project
Attn. Herbert W. Morgan, P.E., Project Director
2000 Chippenham Parkway
Richmond, VA 23234

Subject: **Notice of Assignment of Design-Build Contract by the Virginia Department of Transportation ("VDOT").**

Dear Herb:

By way of reminder, on June 3, 1998, the following events occurred:

(1) VDOT and FD/MK entered into a design-build contract (the "Design-Build Contract") providing for the final design and construction of the Pocahontas Parkway and certain related transportation facilities (the "Project");

(2) VDOT and FD/MK entered into the Comprehensive Agreement to Develop and Operate Route 895 Connector (the "Original Comprehensive Agreement"); and

(3) FD/MK, the Pocahontas Parkway Association (the "Association") and VDOT entered into the Project Financing, Assignment and Assumption Agreement pursuant to which, among other things, FD/MK assigned to the Association, and the Association assumed, the rights and responsibilities of FD/MK as the operator under the Original Comprehensive Agreement (other than certain construction and indemnification obligations).

On June 21, 2006, the Association and the Transurban (895) LLC (the "New Operator") entered into an Asset Purchase Agreement, pursuant to which the Association has sold and assigned to the New Operator, and the New Operator has purchased and assumed from the Association, all of the Association's rights and obligations in connection with the Pocahontas Parkway Project, including its rights and obligations under the Original Comprehensive Agreement (the "Acquisition").

Pursuant to Section 11.4 of the Design-Build Contract and Section 20.1 of the Original Comprehensive Agreement, VDOT hereby notifies FD/MK that in connection with the Acquisition all of VDOT's rights under the Design Build Contract, including warranties provided by FD/MK and any subcontractor or vendor required to provide warranties thereunder, are being assigned by VDOT in favor of the New Operator of the Project. This assignment is effective as of the date of this notice.

Please contact me if you have any questions or comments.

Sincerely,

Deborah Brown
Director, Innovative Finance and
Revenue Operations