

**AMENDMENT NO. 7 TO THE COMPREHENSIVE AGREEMENT RELATING TO
THE I-77 HOT LANES PROJECT**

This AMENDMENT NO. 7 TO THE COMPREHENSIVE AGREEMENT RELATING TO THE I-77 HOT LANES PROJECT (this "Amendment") is made and entered into as of March 29, 2017 by and between the NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, a department of the State of North Carolina ("NCDOT"), and I-77 MOBILITY PARTNERS LLC, a Delaware limited liability company ("Developer").

RECITALS

WHEREAS, NCDOT and Developer entered into the Comprehensive Agreement Relating to the I-77 HOT Lanes Project, dated as of June 26, 2014, as amended (the "Comprehensive Agreement") pursuant to which NCDOT granted to Developer the exclusive right, and Developer accepted the obligation, to finance, develop, design, construct, operate and maintain the Project, and to toll the HOT Lanes in accordance with the CA Documents; and

WHEREAS, NCDOT and Developer desire to amend their respective rights and obligations under the Comprehensive Agreement, on the terms set forth in this Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants contained herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. Each capitalized term used and not otherwise defined herein shall have the respective meanings assigned to such term in the Comprehensive Agreement.

2. Amendment to Section 8.1.1 of the Agreement. Section 8.1.1 of the Comprehensive Agreement is amended to read as follows:

"8.1.1 Except as otherwise provided in Section 23 of the Technical Provisions, NCDOT shall be responsible for operation and maintenance of the Existing Assets until October 1, 2017. Commencing October 1, 2017, Developer shall assume responsibility for the O&M Work for the Project in accordance with the CA Documents; provided, however, that Developer shall assume responsibility for the O&M Work with respect to those Project Elements and Existing Assets contemplated in clause (b) of the definition of O&M Commencement Date, as set forth and in accordance with Section 23 of the Technical Provisions."

3. Amendment to Section 11.1 of the Agreement. Section 11.1 of the Comprehensive Agreement is amended to add the following new Section 11.1.7:

"11.1.7 The Parties acknowledge and agree that the reconstruction by NCDOT of the I-85 interchange is a Related Transportation Facility. Developer shall not be entitled to submit a Claim

for any increased costs to the Developer's O&M Work or loss of Toll Revenues caused by the construction activities (including maintenance during construction and maintenance of traffic) of such reconstruction of the I-85 interchange; provided that (a) such increased costs or loss are directly attributable to impacts to the I-85 direct connectors constructed by the Developer; (b) NCDOT follows Good Industry Practices in the reconstruction of the I-85 interchange; and (c) such reconstruction provides at least the same connectivity as the I-85 direct connectors constructed by the Developer. Nothing in this Section 11.1.7 is intended to otherwise limit the Parties' rights and obligations under the CA Documents, including, without limitation, NCDOT's obligations under Section 11.1.6. Prior to reconstruction, NCDOT shall notify the Developer regarding the scope and estimated duration of the I-85 interchange reconstruction that is the subject of this Section 11.1.7."

4. Amendments to Exhibit 1 of the Agreement. The following definitions to Exhibit 1 of the Comprehensive Agreement are amended to read as follows:

"**O&M Commencement Date** means (a) with respect to the Project (other than as contemplated in clause (b) immediately succeeding), October 1, 2017 and (b) in respect of any Project Element or Existing Asset, the date upon which Developer first replaces, widens, modifies, constructs, installs or otherwise alters such Project Element or Existing Asset, in each case, in accordance with and as set forth in Section 23 of the Technical Provisions."

"**Public Funds Amount** means \$87,130,001.38, as may be adjusted pursuant to the Agreement."

5. Amendment to Attachment 3 to Exhibit 5 of the Agreement. Attachment 3 to Exhibit 5 of the Comprehensive Agreement is amended and replaced with Attachment A of this Amendment.

6. Amendment to Section 2.14.3 of the Technical Provisions. The first sentence of the fourth paragraph of Section 2.14.3 of the Technical Provisions is amended to read as follows:

"The O&M Manager shall have undertaken training in the use and application of Quality Systems including the application of ISO 9001 no later than 90 days prior to October 1, 2017."

7. Amendment to Section 4.2.3.4 of the Technical Provisions. The first sentence of Section 4.2.3.4 of the Technical Provisions is amended to read as follows:

"Developer is responsible for compensatory mitigation for all impacts to wetlands and surface waters due to Work performed through the Term, except that NCDOT has paid for compensatory mitigation and/or acquired mitigation to wetlands and surface waters

associated with the Governmental Approvals required for Work performed during the Construction Period.”

8. Amendment to Section 23.1 of the Technical Provisions. The second paragraph of Section 23.1 of the Technical Provisions is amended to read as follows:

“The Project shall be monitored, operated and maintained 24 hours per day, seven days per week in accordance with the CA Documents. In particular, Developer shall provide Incident Response/Emergency Response and Emergency repair 24 hours per day, seven days per week in accordance with the Incident Management Plan and applicable Law. Developer shall provide the appropriate staff levels for these hours of operation and be available to assume these responsibilities on October 1, 2017 through the end of the Term. Notwithstanding anything to the contrary in the CA Documents, Developer shall not be entitled to submit any claim against NCDOT, and NCDOT shall have no liability to Developer, for any Incident/Emergency response and Emergency repair performed by NCDOT prior to October 1, 2017.”

9. Amendment to Section 23.1.1.1 of the Technical Provisions. Section 23.1.1.1 of the Technical Provisions is amended to read as follows:

“From the O&M Commencement Date until Substantial Completion of the applicable Project Section, Developer’s O&M Work responsibilities shall be as set forth in Section 23.1.1.2 of the Technical Provisions, except as follows.

For any Project Elements that are newly constructed or installed by Developer or Existing Assets that Developer newly replaces, widens, modifies, constructs, installs or otherwise alters prior to October 1, 2017, Developer shall assume O&M Work responsibilities on the date that those Project Elements are newly constructed or installed by Developer or Existing Assets are newly replaced, widened, modified, constructed, installed or otherwise altered.

For all Existing Assets that are not newly replaced, widened, modified, or otherwise altered by Developer prior to October 1, 2017, Developer’s O&M Work responsibilities shall commence on October 1, 2017.

For example, prior to October 1, 2017, if Developer newly replaces, widens, modifies, constructs, installs or otherwise alters any pavement markings on the Existing General Purpose Lanes or Existing HOV Lanes and does not make any modifications to the underlying pavement itself, Developer shall only have O&M responsibilities for the pavement markings and not the underlying Existing General Purpose Lane or Existing HOV Lane pavement until October 1, 2017.

For those Elements which are the responsibility of NCDOT under clauses (b), (c), (d), (e), (f) and (g) of Section 23.1.1.2 of the Technical Provisions below, if Developer newly replaces, widens, modifies or otherwise alters any of those Elements prior to Substantial

Completion of the applicable Project Section, Developer shall assume all O&M Work responsibilities on such Elements.”

10. Amendment to Section 23.1.1.1.1 of the Technical Provisions. Section 23.1.1.1.1 of the Technical Provisions is amended to read as follows:

“No less than 30 days prior to October 1, 2017, NCDOT will enlist a qualified independent third party inspector, at NCDOT’s expense, to undertake an asset condition survey of all Elements within the Project Right of Way that Developer has not newly replaced, widened, modified or otherwise altered prior to October 1, 2017, in order to identify any pre-existing conditions that do not meet the minimum Performance Requirements set forth in Table 23.1 prior to Developer’s O&M Work responsibilities that begin on October 1, 2017. Developer and NCDOT shall both agree upon and approve of the independent third party inspector to be used for the asset condition survey.

For all pre-existing conditions identified in the asset condition survey which do not meet the minimum Performance Requirements set forth in Table 23.1, the independent third party inspector shall determine if the pre-existing condition presents a safety issue or otherwise potentially hazardous situation.

If the pre-existing condition does not present a safety issue or otherwise potentially hazardous situation, Developer shall have a 180 day grace period, beginning on October 1, 2017, upon which to perform the necessary O&M Work to rectify the pre-existing condition and meet the minimum Performance Requirements before the Cure Period and assessment of Noncompliance Points set forth in Table 23.1 shall begin to apply.

If the pre-existing condition is determined to present a safety issue or otherwise potentially hazardous situation, and for any pre-existing condition that occurs between the time of the asset condition survey and October 1, 2017, Table 23.1 shall apply in its entirety immediately upon the beginning of Developer’s O&M Work responsibilities on October 1, 2017.

All Project Elements that are newly constructed or installed by Developer or Existing Assets that Developer newly replaces, widens, modifies, constructs, installs, or otherwise alters prior to October 1, 2017 shall be excluded from the asset condition survey and the Performance Requirements in Table 23.1 shall apply commencing on October 1, 2017.”

11. Amendment to Section 23.1.3.1 of the Technical Provisions. The second paragraph of Section 23.1.3.1 of the Technical Provisions is amended to read as follows:

“For O&M During Construction, Developer shall not be subject to incurring any Noncompliance Points set forth in Table 23.1 until October 1, 2017, in accordance with Section 18.1.1 of the Agreement.”

12. Amendment to Section 23.1.4 of the Technical Provisions. The fourth sentence of the second paragraph of Section 23.1.4 of the Technical Provisions is amended to read as follows:

“Within 45 days prior to the beginning of each Fiscal Year after October 1, 2017, Developer shall update the O&M Plan and submit it to NCDOT for review and approval.”

13. Amendment to Section 23.1.5 of the Technical Provisions. The first and second sentence of the first paragraph of Section 23.1.5 of the Technical Provisions are amended to read as follows:

“Beginning on October 1, 2017, Developer shall deliver the O&M Monthly Report to NCDOT for review and comment no later than the 15th day of each month. The format of the O&M Monthly Report shall be submitted to NCDOT by Developer for approval 60 days prior to October 1, 2017.”

14. Amendment to Section 23.1.6 of the Technical Provisions. The first sentence of the second paragraph of Section 23.1.6 of the Technical Provisions is amended to read as follows:

“Beginning on October 1, 2017, Developer shall deliver the O&M Annual Report to NCDOT no later than the 30th day of each Fiscal Year for review and comment.”

15. Amendment to Section 23.2.2 of the Technical Provisions. Section 23.2.2 of the Technical Provisions is amended to read as follows:

“Except as otherwise provided in Section 23.1 of the Technical Provisions, Developer shall be responsible for all O&M Work on all Bridges and roadways within the Project Right of Way from October 1, 2017 until the end of the Term.”

16. Amendment to Section 23.4 of the Technical Provisions. The first paragraph of Section 23.4 of the Technical Provisions is amended to read as follows:

“Developer shall meet the minimum Performance Requirements set forth in Table 23.1 of the Technical Provisions from October 1, 2017 to the Substantial Completion Date for each Project Section, respectively and such failure to meet these minimum Performance Requirements shall result in Construction Noncompliance Events as set forth in the CA Documents. Prior to October 1, 2017, failure to meet the minimum Performance Requirements in Table 23.1 of the Technical Provisions shall be deemed Nonconforming Work.”

17. Amendment to Section 23.7 of the Technical Provisions. The third, fourth, fifth, and sixth bulleted paragraphs of Section 23.7 of the Technical Provisions are amended to read, respectively, as follows:

- “• Annual Operations & Maintenance Plan Updates for approval within 45 days prior to the beginning of each Fiscal Year after October 1, 2017;”
- “• O&M Monthly Report Format for approval 60 days prior to October 1, 2017;”
- “• O&M Monthly Report for review and comment by the 15th day of each month beginning on October 1, 2017;”
- “• O&M Annual Report for review and comment no later than the 30th day of each Fiscal Year beginning on October 1, 2017;”

18. Amendment to Table 23.1 of the Technical Provisions.

(a) The heading of Table 23.1 of the Technical Provisions is amended to read follows:

“TABLE 23.1 – O&M DURING CONSTRUCTION WORK REQUIREMENTS (DEVELOPER NOT SUBJECT TO NONCOMPLIANCE POINTS UNTIL OCTOBER 1, 2017)”

(b) The “Minimum Performance Requirements” for the “Required Task” with “ID” number 3 in Table 23.1 is amended to read as follows:

“Within 45 days prior to the beginning of each Fiscal Year after October 1, 2017, update the O&M Plan and submit it to NCDOT for review and approval.”

(c) The “Minimum Performance Requirements” for the “Required Task” with “ID” number 4 in Table 23.1 is amended to read as follows:

“Beginning on October 1, 2017, deliver the O&M Monthly Report to NCDOT no later than the 15th day of the subsequent month.”

(c) The “Minimum Performance Requirements” for the “Required Task” with “ID” number 5 in Table 23.1 is amended to read as follows:

“Beginning on October 1, 2017, deliver the O&M Annual Report to NCDOT no later than the 30th day of the subsequent Fiscal Year.”

(c) The title of the “Element Category” under “Incident Response” in Table 23.1 is amended to read as follows:

“Beginning October 1, 2017 – Incident Response”

Execution Version

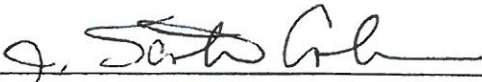
19. No Modification or Waiver. This Amendment is limited to the matters set forth herein and shall not constitute a modification or waiver of any other provision, right or obligation under the Comprehensive Agreement.

20. Counterparts. This Amendment 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 document.

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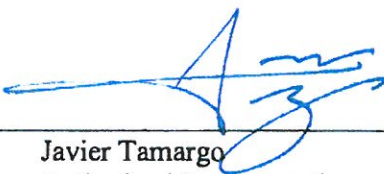
IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound, have executed this Amendment on the date first written above.

**NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION**

By: 

Scott Cole
Authorized Representative

I-77 MOBILITY PARTNERS LLC

By: 

Javier Tamargo
Authorized Representative

Attachment A

[see attached]

Original

[illegible]

Revised **Form J: Maximum Payment Curve** (US Dollars)

[illegible]