

**AMENDMENT NO. 5 TO**  
**COMPREHENSIVE DEVELOPMENT AGREEMENT**  
**IH 635 MANAGED LANES PROJECT**

THIS AMENDMENT NO. 5 TO COMPREHENSIVE DEVELOPMENT AGREEMENT ("Amendment") is entered into and effective as of December 13, 2011 between the Texas Department of Transportation, a public agency of the State of Texas ("TxDOT"), and LBJ Infrastructure Group LLC, a Delaware limited liability company ("Developer"), with reference to the following facts:

A. TxDOT and Developer entered into that certain Comprehensive Development Agreement for IH 635 Managed Lanes Project, dated as of September 4, 2009 (the "CDA"), together with related agreements collectively referred to in the CDA as the "CDA Documents".

B. Developer has requested TxDOT approval of modifications of the lane closure requirements in the Technical Provisions (Book 2A), and TxDOT is willing to grant such approval, subject to the ability to impose liquidated damages if the actual lane closures exceed the agreed upon lane closure periods.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, TxDOT and Developer agree as follows:

1. Definitions. All capitalized terms used but not defined in this Amendment have the respective meanings set forth in the CDA.
2. Amendment of Section 17.4.3 of the CDA. Section 17.4.3 of the CDA is amended as follows:

**17.4.3 Liquidated Damages Respecting Lane Rental Charges and**  
**Certain Cross Street Bridge Closures**

**17.4.3.1** Developer shall be liable for and pay to TxDOT liquidated damages for Lane Rental Charges assessed against Developer in the amounts set forth in Exhibit 21.

**17.4.3.2** Developer shall be liable for and pay to TxDOT liquidated damages if Developer for any reason fails to timely complete and open to traffic the Rosser Road and Welch Road bridges within the time frames set forth in Section 18.3.1(d) of the Technical Provisions. The amount of such liquidated damages shall be:

(i) \_\_\_\_\_ for the Rosser Road bridge, one thousand dollars (\$1000.00) for each day that the Rosser Road bridge (or any portion thereof) is not complete and open to traffic beyond the permissible one-time closure of up to 194 days set forth in Section 18.3.1 of the Technical Provisions; and

(ii) \_\_\_\_\_ for the Welch Road bridge, three thousand three hundred dollars (\$3,300.00) for each day that the Welch Road bridge (or any portion thereof) is not complete and open to traffic beyond the permissible one-time closure of up to 147 days set forth in Section 18.3.1 of the Technical Provisions.

**17.4.3.217.4.3.3** Developer and TxDOT acknowledge that such liquidated damages are reasonable in order to compensate TxDOT for damages it will incur by reason of the matters that result in Lane Rental Charges. Such damages include loss of potential revenue payment for TxDOT, loss of use, enjoyment and benefit of the Project and connecting TxDOT transportation facilities by the general public, injury to the credibility and reputation of TxDOT's transportation improvement program with policy makers and with the general public who depend on and expect availability of service, which injury to credibility and reputation may directly result in loss of ridership on the Project and connecting TxDOT transportation facilities and further loss of TxDOT's revenue payment under this Agreement and/or toll revenues on such connecting facilities, and additional costs of administering this Agreement (including engineering, legal, accounting, overhead and other administrative costs). Developer further acknowledges that these damages are incapable of accurate measurement because of, among other things, the unique nature of the Project and the unavailability of a substitute for it.

3. Amendment of Section 18.3.1(d) of the Technical Provisions (Book 2A). Section 18.3.1(d) of the Technical Provisions is amended as follows:

#### **18.3.1 Traffic Control Plans**

- d) Additional Constraints during the DB phase:

The Project scheduling and phasing shall also take account of:

- Existing Frontage Roads – Once construction begins on a section of a Frontage Road, the Developer has 180 days to complete or restore to existing capacity including driveways and intersecting roads. A section of a Frontage Road is defined as a portion of the Frontage Road on one side of IH 635 between successive cross streets. The cross streets are shown in Table 18-1A.
- Dallas North Tollway (DNT) General Purpose Lanes – For reconstruction of the portion of the DNT General Purpose Lanes, within the Project limits, three through lanes of the DNT in each direction shall be kept open at all times. LRCs will apply to any closures of the portion of DNT General Purpose lanes, within the Project limits, that reduce the DNT availability to less than three lanes in each direction.
- Roads crossing over/under IH 635 - The Developer shall maintain the minimum number of lanes open as in Table 18-1A. Reductions in capacity for successive cross streets will not be allowed simultaneously without the appropriate Governmental Entity approval. The Developer will have the time frames noted in Table 18-1A to restore the existing capacity noted in the table, including all approaches. **except that Developer shall be allowed to close the Rosser Road and Welch Road bridges or portions thereof, at the same time, for the time periods listed below if Developer obtains and provides TxDOT written concurrence from the Cities of Dallas and Farmers Branch (cities coordinated with emergency services) and Independent School Districts. The time period for the permissible closure of each bridge shall commence on the first date that any portion of the bridge is closed to traffic, regardless of whether a detour route has been established.**

- The Rosser Road bridge structure (or any portion thereof) may be closed one time for a maximum of 194 days for reconstruction, although Developer will use good faith efforts to open the entirety of the bridge to traffic within 180 days. The entirety of Rosser Road, including all approaches, frontage road intersections, etc. shall be open in the ultimate configuration immediately after the 158 day reconstruction period.
  - The Welch Road bridge structure (or any portion thereof) may be closed one time for a maximum of 147 days for reconstruction, although Developer will use good faith efforts to open the entirety of the bridge to traffic within 140 days. The entirety of Welch Road, including all approaches, frontage road intersections, etc. shall be open in the ultimate configuration immediately after the 147 day reconstruction period. Welch Road access to and from the frontage roads shall be maintained at all times during the 147 day reconstruction period.
- Roads intersecting the Frontage Roads may not be closed unless alternative access exists or is provided. When alternative access cannot be provided, an intersecting road may be closed with TxDOT Approval. The Developer shall work diligently to complete construction activities and re-open an intersecting road that has been closed.
  - Driveways shall not be closed unless alternative access exists or is provided. Temporary driveways must be constructed to accommodate its normal traffic type and load.
  - Shoulders along the freeway section both inside and outside may be eliminated as part of the Traffic Control Plan. A minimum one foot offset to the nominal face of the barrier shall be maintained.
  - For construction east of US 75, the Developer shall ensure that all existing General Purpose Lanes, Frontage Roads and connector ramps are open at all times, except during Period D when one General Purpose Lane per direction may be closed.
4. Effectiveness of CDA Documents. Except as specifically amended hereby, the provisions of the CDA Documents (including all prior written amendments thereto) are hereby confirmed and remain in full force and effect without change.
  5. Binding Effect of Amendment. This Amendment is entered into pursuant to Section 24.3 of the CDA, and shall be valid, effective and enforceable notwithstanding Section 24.13 of the CDA or any similar provision in any other CDA Document declaring that the CDA Document constitutes the sole, integrated agreement of the Parties.
  6. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.

[SIGNATURES FOLLOW ON NEXT PAGE]

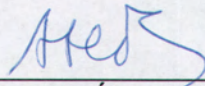
IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed as of the day and year first above written.

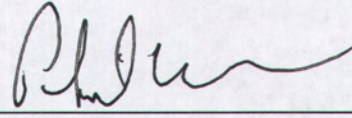
**Developer**

**TxDOT**

**LBJ INFRASTRUCTURE GROUP LLC**

**TEXAS DEPARTMENT OF TRANSPORTATION**

By:   
Name: Mr. Antonio Álvarez-Cedrón  
Title: CEO/Program Manager

By:   
Name: Phil Wilson  
Title: Executive Director