

**UNITED STATES  
DEPARTMENT OF TRANSPORTATION**

**TIFIA LOAN AGREEMENT**

**For Up to \$452,200,000**

**With**

**KENTUCKY PUBLIC TRANSPORTATION  
INFRASTRUCTURE AUTHORITY**

For the

**DOWNTOWN CROSSING PROJECT  
(TIFIA-2013-1010A)**

**Dated as of December 12, 2013**

## TABLE OF CONTENTS

	<u>Page</u>
SECTION 1. Definitions.....	2
SECTION 2. Interpretation.....	22
SECTION 3. TIFIA Loan Amount .....	23
SECTION 4. Disbursement Conditions.....	23
SECTION 5. Term .....	25
SECTION 6. Interest Rate .....	25
SECTION 7. Outstanding TIFIA Loan Balance and Revisions to Exhibit G and the Loan Amortization Schedule .....	25
SECTION 8. Security and Priority; Flow of Funds .....	26
SECTION 9. Payment of Principal and Interest .....	26
SECTION 10. Prepayment .....	28
SECTION 11. [Intentionally Omitted] .....	29
SECTION 12. Compliance with Laws .....	29
SECTION 13. Conditions Precedent .....	30
SECTION 14. Representations and Warranties of Borrower .....	36
SECTION 15. Representations, Warranties of TIFIA Lender.....	43
SECTION 16. Affirmative Covenants.....	43
SECTION 17. Negative Covenants .....	53
SECTION 18. Indemnification .....	56
SECTION 19. Sale of TIFIA Loan.....	57
SECTION 20. Events of Default and Remedies.....	57
SECTION 21. Accounting and Audit Procedures; Inspections; Reports and Records	61
SECTION 22. Financial Plan, Statements, and Reports.....	63
SECTION 23. Project Oversight and Monitoring .....	66
SECTION 24. No Personal Recourse .....	69
SECTION 25. No Third Party Rights.....	69
SECTION 26. Borrower’s Authorized Representative.....	69
SECTION 27. TIFIA Lender’s Authorized Representative .....	69
SECTION 28. Servicer .....	70
SECTION 29. Fees and Expenses .....	70
SECTION 30. Amendments and Waivers .....	71
SECTION 31. Governing Law .....	71
SECTION 32. Severability .....	71
SECTION 33. Successors and Assigns.....	71
SECTION 34. Remedies Not Exclusive.....	71
SECTION 35. Delay or Omission Not Waiver.....	71
SECTION 36. Counterparts.....	72
SECTION 37. Notices; Payment Instructions .....	72
SECTION 38. Effectiveness .....	73
SECTION 39. Termination.....	73
SECTION 40. Integration .....	73

## **SCHEDULES**

**Schedule I – Project Budget**

**Schedule II – Construction Schedule**

**Schedule 14(s) – Environmental Matters**

**Schedule 14(t) – Governmental Approvals**

**Schedule 14(u) – Insurance**

**Schedule 14(x) – Intellectual Property**

**Schedule 14(cc) – Transactions with Related Governmental Authorities**

## **EXHIBITS**

**EXHIBIT A – Form of TIFIA Bond**

**EXHIBIT B – [Reserved]**

**EXHIBIT C – Non-Debarment Certification**

**EXHIBIT D – Requisition Procedures**

**EXHIBIT E – Compliance With Laws**

**EXHIBIT F – [Reserved]**

**EXHIBIT G – TIFIA Debt Service**

**EXHIBIT H-1 – Form of Wyatt, Tarrant & Combs LLP Opinion**

**EXHIBIT H-2 – Form of Peck Shaffer Opinion**

**EXHIBIT H-3 – Form of Opinion of Counsel to Transportation Cabinet**

**EXHIBIT I – Section 504 of Indenture**

**EXHIBIT J – Certificate of Trustee**

**EXHIBIT K – Form of Transportation Cabinet Direct Agreement**

## **TIFIA LOAN AGREEMENT**

**THIS TIFIA LOAN AGREEMENT** (this "Agreement"), dated as of December 12, 2013 by and between **KENTUCKY PUBLIC TRANSPORTATION INFRASTRUCTURE AUTHORITY**, an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky (the "State") constituting a governmental agency and instrumentality of the State, with an address of 200 Mero Street, 6<sup>th</sup> Floor, Frankfort, KY 40622 (the "Borrower"), and the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Administrator, with an address of 1200 New Jersey Avenue, S.E., Washington, DC 20590 (the "TIFIA Lender"),

### **RECITALS:**

WHEREAS, the Congress of the United States of America has found that a well-developed system of transportation infrastructure is critical to the economic well-being, health and welfare of the people of the United States and, in furtherance thereof, has enacted the Transportation Infrastructure Finance and Innovation Act of 1998 ("TIFIA"), § 1501 *et seq.* of Public Law 105-178 (as amended by Public Law 105-206, Public Law 109-59 and Public Law 112-141) (the "Act"), as codified as 23 U.S.C. § 601, *et seq.*; and

WHEREAS, Section 603 of the Act authorizes the TIFIA Lender to enter into agreements with one or more obligors to make secured loans; and

WHEREAS, the Borrower has requested that the TIFIA Lender make the TIFIA Loan (as defined herein) in a principal amount not to exceed \$452,200,000 (the "TIFIA Loan") to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project (as defined herein) pursuant to the application for TIFIA credit assistance dated September 6, 2013 (the "Application"); and

WHEREAS, on November 13, 2013, the Secretary (as defined herein) approved TIFIA credit assistance for the Project in the form of a direct loan in an aggregate principal amount not to exceed \$452,200,000; and

WHEREAS, the TIFIA Lender is prepared to extend credit upon the terms and conditions hereof; and

WHEREAS, the Borrower agrees to repay any amount due pursuant to this Agreement and the Note (as defined herein) in accordance with the terms and provisions hereof and thereof; and

WHEREAS, the TIFIA Lender has entered into this Agreement in reliance upon, among other things, the Traffic and Revenue Study (as defined herein) and the Base Case Projections (as defined herein) delivered by the Borrower.

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and intending to be legally bound hereby, it is hereby mutually agreed by and between the Borrower and the TIFIA Lender as follows:

SECTION 1. Definitions. Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth below in this Section 1 or as otherwise defined in this Agreement. Any term used in this Agreement that is defined by reference to any other agreement shall continue to have the meaning specified in such agreement on the Effective Date, whether or not such agreement remains in effect.

**“Acceptable Credit Rating”** means, with respect to any Person, the rating of its unsecured, senior long-term indebtedness (or, if such Person has no such rating, then its issuer rating or corporate credit rating) is no lower than (a) at the time such Person executes, delivers or issues a Qualified Hedge or Credit Facility, ‘A+’, ‘A1’ or the equivalent rating from any Nationally Recognized Rating Agency, and (b) at any time thereafter, ‘A’, ‘A2’ or the equivalent rating from any Nationally Recognized Rating Agency.

**“Accreted Value”** means, with respect to any Capital Appreciation Bonds or Convertible Capital Appreciation Bonds, as of any date of calculation, the sum of the amount set forth in a Series Trust Indenture as the amount representing the initial principal amount of those Capital Appreciation Bonds or Convertible Capital Appreciation Bonds plus the interest accumulated, compounded and unpaid thereon as of the most recent compounding date, determined in accordance with the provisions of the Series Trust Indenture authorizing the issuance of the applicable Capital Appreciation Bonds or Convertible Capital Appreciation Bonds.

**“Act”** means the Act as defined in the recitals hereto. In addition, the Act includes those sections of law which are codified in Title 23, United States Code.

**“Additional Project”** has the meaning provided in the Indenture.

**“Additional Project Contracts”** means any contract, agreement, letter of intent, understanding or instrument (other than a Principal Project Contract) entered into by a Borrower Related Party after the execution and delivery of this Agreement, providing for the design, construction, testing, commissioning, safety, financial services, operation or maintenance of the Project, or otherwise relating to the Project; provided, however, that a contract or agreement shall not constitute an Additional Project Contract if it (a) is entered into (i) in the ordinary course of business in connection with the furnishing of goods or the performance of services or (ii) for necessary Project-related expenditures, (b) commits the Borrower Related Party to spend, or is reasonably expected to involve expenditures by the Borrower in one contract or a series of related contracts of, no more than \$5,000,000 in the aggregate for any such contract or series of related contracts and (c) is for a term not exceeding two (2) years.

**“Additional Senior Obligations”** means First Tier Bonds (other than the Initial Senior Obligations) and Second Tier Bonds issued pursuant to the Indenture and satisfying the following requirements: (i) such Additional Senior Obligations have an Investment Grade Rating; (ii) no Event of Default under the Indenture or this Agreement has occurred and is continuing; and (iii) the Nationally Recognized Rating Agency that provided the most recent ratings of the Senior Obligations and the TIFIA Loan in

accordance with Section 16(j) shall have confirmed that the incurrence of such Additional Senior Obligations shall not result in a downgrade of the then-existing credit ratings of the Senior Obligations and the TIFIA Loan, respectively.

**“Administrator”** means the Administrator of the FHWA.

**“Agreement”** has the meaning provided in the preamble hereto.

**“Annual Debt Service”** has the meaning provided in the Indenture.

**“Authority System”** means (i) the Project and (ii) any Additional Project that is approved in accordance with this Agreement.

**“Authority System Revenue”** means (i) Authority Toll Revenue plus (ii) investment earnings required to be deposited (or if related to a calculation with respect to future deposits, as reasonably estimated by the Borrower to be deposited) in the Authority System Revenue Fund in accordance with the terms of the Indenture.

**“Authority System Revenue Fund”** has the meaning provided in the Indenture.

**“Authority Toll Revenue”** means the amount payable to the Borrower pursuant to the Development Agreement from the gross amount of all tolls, administrative fees, violation charges, incidental charges, penalties and other charges collected through a collection process with respect to the Project.

**“Bank Lending Margin”** means in respect of any Variable Interest Rate Senior Obligations, the “Applicable Margin” or comparable interest rate margin as defined in the financing documents related thereto.

**“Bank Secrecy Act”** means the Bank Secrecy Act of 1970, as amended, and the regulations promulgated thereunder.

**“Bankruptcy Related Event”** means, with respect to any Person, (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of such Person or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for such Person or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; or (b) such Person shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) solely with respect to the Borrower, fail to make two (2) consecutive payments of TIFIA Debt Service, (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or

petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (vi), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing.

**“Base Case Financial Model”** means a financial model prepared by the Borrower forecasting the Pledged Receipts and expenditures of the Project for time periods through the final maturity of the TIFIA Loan and based upon assumptions and methodology provided by the Borrower and acceptable to the TIFIA Lender which shall be provided to the TIFIA Lender as a fully functional Microsoft Excel – based financial model.

**“Base Case Projections”** means the initial forecast for the Project prepared as of the Effective Date using the Base Case Financial Model.

**“Bond”** or **“Bonds”** means a “Bond” or “Bonds” as defined in the Indenture, including the TIFIA Bond.

**“Bond Anticipation Obligations”** means Bonds issued in anticipation of the sale of a series of Bonds in a principal amount not exceeding the principal amount of such series of Bonds and payable from the proceeds of the sale of the series of Bonds in anticipation of which such Bond Anticipation Obligations are issued, which may be payable, in whole or in part, from Pledged Receipts, at the discretion of the Borrower, as set forth in a Supplemental Trust Indenture.

**“Bondholder”** has the meaning provided in the Indenture.

**“Borrower”** has the meaning provided in the preamble hereto.

**“Borrower Fiscal Year”** shall mean (a) as of the Effective Date, a fiscal year of the Borrower commencing on July 1 of any calendar year and ending on June 30 of the immediately succeeding calendar year or (b) such other fiscal year as the Borrower may hereafter adopt with thirty (30) days’ prior written notice to the TIFIA Lender.

**“Borrower Related Party”** means, individually or collectively, the Borrower and the Transportation Cabinet.

**“Borrower’s Authorized Representative”** means any Person who shall be designated as such pursuant to Section 26.

**“Business Day”** means any day other than a Saturday, a Sunday or a day on which offices of the Government or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York or in Louisville, Kentucky.

**“Calculation Date”** means each January 1 and July 1 occurring after the Effective Date.

**“Calculation Period”** means a twelve (12) month period ending on a Calculation Date.

**“Capital Appreciation Bonds”** means any series of Bonds all the interest on which is compounded and accumulated at the rates and on the dates set forth in a Series Trust Indenture and is payable only upon redemption or on the maturity date of those Bonds.

**“Capital Expenditures”** means expenditures made or liabilities incurred for the acquisition of any fixed assets or improvements, replacements, substitutions or additions thereto that have a useful life of more than one (1) year which are capitalized in accordance with GASB.

**“Code”** means the Internal Revenue Code of 1986, as amended from time to time.

**“Construction Agreement”** means that certain Design-Build Agreement, dated as of December 28, 2012, between the Transportation Cabinet and the Construction Contractor.

**“Construction Contractor”** means Walsh Construction Company, a corporation organized under the laws of the State of Illinois.

**“Construction Period”** means the period from the Effective Date through the Substantial Completion Date.

**“Construction Schedule”** means the schedule or schedules on which the proposed construction timetables for elements of the Project are set forth, attached as Schedule II to this Agreement.

**“Consulting Engineer”** means an engineering firm selected by the Borrower and approved by the TIFIA Lender.

**“Control”** means, when used with respect to any particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person whether through the ownership of voting securities or partnership or other ownership interests, by contract or otherwise, and the terms **“Controlling,” “Controlled by”** and **“under common Control with”** have meanings correlative to the foregoing.

**“Convertible Capital Appreciation Bonds”** means Bonds which initially are issued as Capital Appreciation Bonds, but later convert to Bonds on which interest is paid periodically. Convertible Capital Appreciation Bonds shall be Capital Appreciation Bonds until the conversion date and from and after that conversion date shall no longer

be Capital Appreciation Bonds but shall be treated as having a principal amount equal to their Accreted Value on the conversion date.

**“Covenant Default”** has the meaning provided in Section 20(a)(vi).

**“CPI”** means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted), or its successor, published by the Bureau of Labor Statistics, with, unless otherwise specified herein, January 2013 as the base period.

**“Credit Facility”** or **“Credit Facilities”** means, with respect to a series of Bonds issued pursuant to the Indenture, a letter of credit, line of credit, municipal bond insurance, surety policy, standby bond purchase agreement, direct purchase or similar agreement or other form of credit enhancement and/or liquidity support, which may include self-liquidity provided by the Borrower, if any, for that series of Bonds, provided for in the applicable Series Trust Indenture, including any alternate Credit Facility with respect to that series of Bonds delivered in accordance with provisions of the Series Trust Indenture providing for the issuance of that series of Bonds.

**“Credit Provider”** has the meaning provided in the Indenture.

**“Custody Agreement”** means that certain agreement, described in the Development Agreement to be entered into by IFA, on behalf of the Joint Board, and a financial institution selected to establish and maintain one or more controlled accounts for the benefit of the Borrower Related Parties, IFA and INDOT for the collection and allocation of revenues produced by the assets included in the LSIORB Project.

**“Debt Service Payment Commencement Date”** means January 1, 2018.

**“Default Rate”** means an interest rate of 200 basis points above the TIFIA Interest Rate.

**“Development Agreement”** means that certain Bi-State Development Agreement, effective December 20, 2012, among the Borrower, the Transportation Cabinet, INDOT and IFA, as amended by that certain Addendum #1, dated as of December 27, 2012, and by that certain Addendum #2, dated as of September 11, 2013.

**“Development Default”** means (a) the Borrower or the Transportation Cabinet fails to diligently prosecute the work related to the Project or (b) the Borrower or the Transportation Cabinet fails to complete the Project in accordance with the Financial Plan as the same may be amended from time to time with the consent of the TIFIA Lender.

**“East End Crossing Developer”** means WVB East End Partners, LLC, a Delaware limited liability company.

**“Effective Date”** means the date of this Agreement.

**“Eligible Project Costs”** means amounts in the Project Budget, substantially all of which are paid by or for the account of the Borrower in connection with the Project, which may include prior Project expenditures as approved by the TIFIA Lender, all of which shall arise from the following:

(a) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(b) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the Project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; or

(c) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

**“Environmental Laws”** has the meaning provided in Section 14(s).

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended from time to time.

**“ERISA Affiliate”** means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

**“Event of Default”** has the meaning provided in Section 20(a).

**“Event of Loss”** means any event that causes any portion of the Authority System to be damaged, destroyed or rendered unfit for normal use for any reason whatsoever, including through a failure of title, or any loss of such property, or a condemnation.

**“FHWA”** means the Federal Highway Administration, an agency of USDOT.

**“FHWA Division Office”** means the Kentucky Division Office of the FHWA.

**“Final Maturity Date”** means the earlier of (i) July 1, 2051 and (ii) the date that is thirty-five (35) years after the Substantial Completion Date.

**“Financial Plan”** means (a) the financial plan to be delivered within sixty (60) days after the Effective Date in accordance with Section 22(a) and (b) any updates thereto required pursuant to Section 22(a).

**“Financial Statements”** has the meaning provided in Section 14(z).

**“First Tier Bonds”** has the meaning provided in the Indenture.

**“First Tier Debt Service Reserve Accounts”** has the meaning provided in the Indenture.

**“Floater/Inverse Floater Debt”** means Permitted Debt which bears interest at a Variable Interest Rate (or a multiple of a Variable Interest Rate) and with respect to which each of the following conditions is met: (a) such Permitted Debt is issued concurrently in two (2) halves of equal principal amount of floating interest rate Permitted Debt and inverse floating rate Permitted Debt, with each half bearing a Variable Interest Rate (or multiple of a Variable Interest Rate), (b) such Permitted Debt and such other Permitted Debt, unless linked to bear a fixed rate of interest, are required to remain outstanding in equal principal amounts at all times, and (c) the net effect of such equal principal amounts and Variable Interest Rates (or multiples of Variable Interest Rates) is at all times a fixed interest rate to the Issuer or the Borrower.

**“GASB”** means generally accepted accounting principles for state and local governments, which are the uniform minimum standards of and guidelines for financial accounting and reporting prescribed by the Governmental Accounting Standards Board.

**“General O&M Expenses”** means (i) except for any Toll System Collection Expenses or M&R Expenses, all actual cash maintenance and operation costs (excluding costs of capital expenditures) incurred and paid (or if applicable forecast to be incurred and paid) in connection with the operation and maintenance of the Project and the Authority System in any particular calendar year, Borrower Fiscal Year or other period to which said term is applicable, including payments made pursuant to the Development Agreement (in each case excluding expenditures that constitute Project Costs), payments for taxes (excluding income taxes), insurance, consumables, advertising, marketing, payments under real property agreements pursuant to which the Borrower has rights in the Project and the Authority System, payments pursuant to the agreements for the management, operation or maintenance of the Project and the Authority System, reasonable legal fees and expenses paid by the Borrower in connection with the management, maintenance or operation of the Project and the Authority System, fees paid in connection with obtaining, transferring, maintaining or amending any approvals from any Governmental Authority, costs incurred in connection with the performance of environmental mitigation work to be carried out by the Borrower, amounts required for the acquisition of any Qualified Hedge or for deposits into any account maintained in accordance with the Indenture for such purposes and reasonable general and administrative expenses, but exclusive in all cases of noncash charges, including depreciation or obsolescence charges or reserves therefor, amortization of intangibles or other bookkeeping entries of a similar nature; (ii) fees and expenses under a Credit Facility and under any related reimbursement expenses and (iii) any fees payable to the TIFIA Lender under this Agreement.

**“General O&M Reserve Fund”** has the meaning provided in the Indenture.

**“General Reserve Annual Surplus”** has the meaning set forth in Section 10(a).

**“General Reserve Fund”** has the meaning provided in the Indenture.

**“Government”** means the United States of America and its departments and agencies.

**“Government Obligations”** means (a) direct obligations of, or obligations on which the timely payment of principal and interest are fully and unconditionally guaranteed by, the Government, (b) bonds, debentures or notes issued by any of the following federal agencies: Banks for Cooperatives, Federal Intermediate Credit Banks, Federal Home Loan Banks, Export-Import Bank of the United States, Government National Mortgage Association or Federal Land Banks, (c) obligations issued or guaranteed by a Person controlled or supervised by and acting as an instrumentality of the Government pursuant to authority granted by the Congress, and (d) evidences of ownership of proportionate interests in future interest or principal payments on obligations specified in clauses (a), (b) and (c) of this definition held by a bank or trust company as custodian and which underlying obligations are not available to satisfy any claim of the custodian or any Person claiming through the custodian or to whom the custodian may be obligated, in each case.

**“Governmental Approval”** means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority.

**“Governmental Authority”** means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions, including the State and its counties and municipalities, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

**“Hedge Facility”** means any payment agreement entered into by or for the Borrower to effect any rate swap transaction, basis swap transaction, cap transaction, floor transaction, collar transaction, or similar transaction, which is intended to convert or limit the interest rate payable with respect to any Bonds, and which (i) is designated as a Hedge Facility to relate to all or part of one or more series of Bonds; (ii) is with a Qualified Hedge Provider; (iii) has a term not greater than the term of the designated Bonds or a specified date for mandatory tender or redemption of the designated Bonds and (iv) is otherwise on terms and conditions acceptable to the TIFIA Lender.

**“Hedge Provider”** means any Qualified Hedge Provider that becomes a party to a Hedge Facility with the Borrower.

**“Hedge Receipts”** means regularly scheduled payments required to be paid to the Borrower by a Hedge Provider under the terms of a Hedge Facility absent any termination, default or dispute in connection with that Hedge Facility.

**“Hedging Obligations”** means, collectively, the payment of (a) all scheduled amounts payable to the Hedge Provider by the Borrower under any Hedge Facility (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), net of all scheduled amounts payable to the Borrower by such Hedge Provider, and (b) all other indebtedness, fees, indemnities and other amounts payable by the Borrower to the Hedge Provider under such Hedge Facility, net of all other indebtedness, fees, indemnities and other amounts payable by the Hedge Provider to the Borrower under such Hedge Facility; provided, that Hedging Obligations shall not include Hedging Termination Obligations. For the avoidance of doubt, all calculations of such amounts payable under the Hedge Facility shall be made in accordance with the terms of the applicable Hedge Facility.

**“Hedging Termination Obligations”** means the aggregate amount payable to the Hedge Provider by the Borrower upon the early unwind of all or a portion of the Hedge Facility, net of all amounts payable to the Borrower by such Hedge Provider upon the early unwind of all or a portion of such Hedge Facility. For the avoidance of doubt, all calculations of such amounts payable under the Hedge Facility shall be made in accordance with the terms of the applicable Hedge Facility.

**“IFA”** means the Indiana Finance Authority, a body politic and corporate created by the state of Indiana.

**“INDOT”** means the Indiana Department of Transportation, an agency of the state of Indiana.

**“Indemnitee”** has the meaning provided in Section 18.

**“Indenture”** means that certain KPTIA 2013 General Trust Indenture, dated as of December 1, 2013, between the Borrower and the Trustee.

**“Indenture Documents”** means the Indenture, each Series Trust Indenture, each Supplemental Trust Indenture, each Hedge Facility and any Credit Facility and any other agreements, instruments and documents executed and delivered pursuant to or in connection with any of the foregoing.

**“Indiana Downtown Property Ground Lease”** means that certain ground lease described in the Development Agreement and to be entered into by the Transportation Cabinet, INDOT and IFA, pursuant to which INDOT and IFA shall grant a lease and other real property rights located in Indiana to the Transportation Cabinet as may be necessary in connection with the construction of the portions of the Project located in Indiana.

**“Initial Obligations”** means (i) the Initial Senior Obligations and (ii) the Bond Anticipation Obligations to be issued under the Indenture on or about December 20, 2013.

**“Initial Senior Obligations”** means the First Tier Bonds to be issued under the Indenture on or about December 20, 2013.

**“Insolvency Laws”** means the United States Bankruptcy Code, 11 U.S.C. § 101 et seq., as from time to time amended and in effect, and any state bankruptcy, insolvency, receivership or similar law now or hereafter in effect.

**“Interim Payment Date”** means any day occurring during a Payment Period that (a) is a date on which interest on or principal of Senior Obligations or Pari Passu Obligations is scheduled to be paid and (b) is not a Semi-Annual Payment Date.

**“Interim Payment Period”** means, at any time that interest on or principal of any Senior Obligations or Pari Passu Obligations is scheduled to be paid on an Interim Payment Date, the period commencing on the immediately preceding Payment Date and ending on such Interim Payment Date.

**“Interlocal Agreement”** means that certain Interlocal Cooperation Agreement for the Design, Procurement, Construction, Financing, Tolling, Operation and Maintenance for the Louisville-Southern Indiana Ohio River Bridges Project, effective as of December 17, 2012, among the Borrower, the Transportation Cabinet, IFA and INDOT.

**“Investment Grade Rating”** means a rating no lower than ‘BBB-’, ‘Baa3’ or the equivalent rating from a Nationally Recognized Rating Agency.

**“Joint Board”** means the board established pursuant to the Interlocal Agreement to administer the Interlocal Agreement and to exercise such other powers and authorities set forth in the Interlocal Agreement and/or in the Development Agreement.

**“Lease Agreement”** means the Lease Agreement, dated as of December 1, 2013, between the Borrower, as lessor, and the Transportation Cabinet, as lessee, as such agreement may be renewed or extended from time to time in accordance with the terms thereof.

**“Lease Payment Fund”** has the meaning provided in the Indenture.

**“Lease Payments”** means payments from the Transportation Cabinet to the Borrower under the Lease Agreement.

**“Lien”** means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or comparable law.

**“Loan Amortization Schedule”** means the Loan Amortization Schedule attached as Appendix Two to the TIFIA Bond, a copy of which is attached hereto as **Exhibit A**, delivered pursuant to Section 9(f), as amended from time to time in accordance with Section 7 and Section 9(f).

**“Loan Underwriting Rate”** means for any period and with respect to any Variable Interest Rate Senior Obligations, the initial rate equal to the sum of the long-term fixed swap rate, plus the swap margin, plus the applicable Bank Lending Margin, contemplated in an updated Base Case Financial Model prepared by the Borrower in respect of such Variable Interest Rate Senior Obligations.

**“Loss Proceeds”** means any proceeds of insurance resulting from any Event of Loss.

**“LSIORB Project”** means the Louisville-Southern Indiana Ohio River Bridges Project, consisting of the Project and an additional bridge across the Ohio River and related facilities referred to generally as the “East End Crossing” project.

**“M&R Reserve Fund”** has the meaning provided in the Indenture.

**“M&R Expenses”** means lifecycle costs and/or capital costs necessary to continue to maintain the Authority System in good operating order and that are not normally recurring costs.

**“Material Adverse Effect”** means a material adverse change in (a) the Project, (b) the business, operations, properties, condition (financial or otherwise) or prospects of any Borrower Related Party, (c) the legality, validity or enforceability of any material provision of any TIFIA Loan Document or Principal Project Contract, (d) the ability of any Borrower Related Party or any other Principal Project Party to perform or comply with any of its material obligations under any TIFIA Loan Document or Principal Project Contract to which it is a party, (e) the validity, perfection or priority of the Liens provided under the Indenture on the Trust Estate in favor of the Secured Parties or (f) the TIFIA Lender’s rights or remedies available under any TIFIA Loan Document.

**“Maximum Annual Debt Service”** means the maximum Annual Debt Service with respect to any Bonds for any Borrower Fiscal Year during the term of those Bonds.

**“Misrepresentation Default”** has the meaning provided in Section 20(a)(vi).

**“Nationally Recognized Rating Agency”** means Standard & Poor’s Rating Group, Moody’s Investors Services, Inc., Fitch Ratings or any other nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission.

**“OFAC”** means the Office of Foreign Assets Control of the United States Department of the Treasury.

**“Organizational Documents”** means, with respect to any Person, (a) to the extent such Person is a corporation, the certificate or articles of incorporation and the by-laws of such Person, (b) to the extent such Person is a limited liability company, the certificate of formation or articles of formation or organization and operating or limited liability company agreement of such Person and (c) to the extent such Person is a partnership, joint venture, trust or other form of business, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization or formation of such Person.

**“Other Material Indebtedness”** has the meaning set forth in Section 20(a)(v).

**“Outstanding TIFIA Loan Balance”** means the aggregate principal amount drawn by the Borrower and then outstanding (including capitalized interest, if any) with respect to the TIFIA Loan, as determined in accordance with Section 7.

**“Pari Passu Obligations”** means any borrowing or indebtedness of the Borrower permitted, or not prohibited, under Section 17(a) of this Agreement and under the Indenture, other than the Initial Senior Obligations, which ranks at least *pari passu* in right of payment with the TIFIA Loan.

**“Patriot Act”** means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, and all regulations promulgated thereunder.

**“Payment Date”** means each Semi-Annual Payment Date or Interim Payment Date.

**“Payment Default”** has the meaning set forth in Section 20(a)(i).

**“Payment Period”** means any period of six (6) months that ends on a Semi-Annual Payment Date, commencing with the six (6) month period ending on the Debt Service Payment Commencement Date.

**“Permitted Debt”** means:

(a) Initial Obligations issued in accordance with the requirements of the Indenture, including the tests for issuance of such Initial Obligations set forth in Article II of the Indenture, as applicable;

(b) additional Bonds issued in accordance with the requirements of the Indenture, including the tests for issuance of such additional Bonds set forth in Article II of the Indenture, as applicable; provided, that any Additional Senior Obligations shall satisfy each of the requirements set forth in the definition for that term;

(c) the TIFIA Loan; and

(d) indebtedness incurred in respect of Qualified Hedges and Qualified Credit Facilities.

**“Permitted Hedging Termination”** means the early termination, in whole or in part, of any Hedging Facility (a) at the request of the Borrower as a result of a determination by the Borrower that such (or any part of such) Hedging Facility is no longer necessary or required under the terms of this Agreement, (b) pursuant to the terms of any agreement evidencing such Hedging Facility that provides for the notional amount of such Hedging Facility to amortize or otherwise be reduced from time to time or (c) as may be required pursuant to Section 16(o)(vii).

**“Permitted Investments”** means (with respect to the investment of the proceeds of the TIFIA Loan or any construction or reserve account established and maintained pursuant to the Indenture):

(a) Government Obligations;

(b) certificates of deposit where the certificates are collaterally secured by securities of the type described in clause (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest, but this collateral is not required to the extent the certificates of deposit are insured by an agency of the Government;

(c) repurchase agreements, when collateralized by securities of the type described in clause (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the repurchase agreement so collateralized, including interest;

(d) investment agreements or guaranteed investment contracts rated, or with any financial institution whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated, at the time such agreement or contract is entered into, in one of the two (2) highest Rating Categories for comparable types of obligations by any Nationally Recognized Rating Agency; and

(e) money market funds that invest solely in obligations of the United States, its agencies and instrumentalities, and having a rating by a Nationally Recognized Rating Agency equal to the then applicable rating of the United States of America by such Nationally Recognized Rating Agency;

*provided*, that with respect to any Permitted Investments maintained in any Reserve Accounts, such Permitted Investments shall mature not more than one (1) year from the date of the creation thereof.

**“Permitted Liens”** means:

(a) Liens imposed pursuant to the TIFIA Loan Documents;

- (b) Liens imposed pursuant to the Indenture;
- (c) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 16(n);
- (d) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 16(n);
- (e) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance, and other social security laws or regulations;
- (f) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (g) judgment liens in respect of judgments that do not constitute an Event of Default under Section 20(a)(vii);
- (h) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower;
- (i) any Lien on any property or asset of the Borrower existing on the Effective Date; provided that (i) such Lien shall not apply to any other property or asset of the Borrower and (ii) such Lien shall secure only those obligations which it secures on the Effective Date and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;
- (j) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition, (ii) such Lien shall not apply to any other property or assets of the Borrower and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition, and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;
- (k) purchase money security interests in equipment hereafter acquired by the Borrower; provided that (i) such security interests secure indebtedness for borrowed money permitted by Section 17(a), (ii) such security interests are incurred, and the indebtedness secured thereby is created, within ninety (90) days after such acquisition, (iii) the indebtedness secured thereby does not exceed the fair market value of such equipment at the time of such acquisition and (iv) such security interests do not apply to any other property or assets (other than accessions to such equipment) of the Borrower;

(l) the Indiana Downtown Property Ground Lease and the ground lease of property in Kentucky pursuant to the Development Agreement in connection with the East End Crossing portion of the LSIORB Project; and

(m) any other lien approved in writing by the TIFIA Lender.

**“Person”** means and includes an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization and any Governmental Authority.

**“Pledged Receipts”** means:

(a) Authority System Revenue;

(b) Hedge Receipts; and

(c) Lease Payments (but only for application in accordance with the requirements of the Indenture for the fund or account under the Indenture into which any Lease Payment or portion thereof is deposited).

**“Principal Project Contracts”** means (i) the Development Agreement, (ii) the Lease Agreement, (iii) the Interlocal Agreement, (iv) the Indiana Downtown Property Ground Lease, (v) the Construction Agreement, and (vi) each Tolling Related Agreement.

**“Principal Project Party”** means any Person (other than the Borrower) party to a Principal Project Contract and any surety or guarantor of such a Person with respect to such Person’s obligations under such Principal Project Contract, for so long as such Principal Project Contract remains in effect.

**“Project”** means:

(a) for the time period from the Effective Date until the Downtown Crossing Final Acceptance Date (as such term is defined in the Development Agreement), the portion of the LSIORB Project that involves the reconstruction and operational improvements to the Kennedy Interchange where I-64, I-65 and I-71 converge on the south side of the Kennedy Bridge in downtown Louisville (Section 1), reconstruction of the Kennedy Bridge along with construction of a New Downtown Bridge just east of the Kennedy Bridge (I-65) (Section 2), and reconstruction of the I-65 approach in Indiana, including modernization to improve ingress and egress and realignment and widening of the approaches (Section 3), all as more fully described in Appendix A to the Development Agreement, together with the Borrower’s share of any Project Wide Costs (as defined in the Development Agreement) during such time period; and

(b) for the time period after the Downtown Crossing Final Acceptance Date and the East End Crossing Substantial Completion Date (as each such term is defined in the Development Agreement), (i) Section 1 and 2 (as described in paragraph (a) above) and (ii) Section 4A of the LSIORB Project, consisting of the portion of the Kentucky

approach to the East End Crossing Bridge other than Section 4B, which is the portion of Section 4 beginning at a point on Proposed KY 841 north of the northerly abutment of the proposed Harrods Creek/River Road Bridge near Station 149+08 northbound and continuing north to the northerly limits of Section 4; provided, that to the extent that the Borrower or the Transportation Cabinet assume responsibility for Section 4A before Indiana assumes responsibility for Section 3, the Project shall consist of Sections 1, 2, 3 and 4A.

**“Project Accounts”** means (i) the Authority System Revenue Fund, (ii) the Project Fund, (iii) the Cost of Issuance Fund, (iv) the Debt Service Fund, (v) the Redemption Fund, (vi) the Tolling O&M Reserve Fund, (vii) the General O&M Reserve Fund, (viii) the M&R Reserve Fund, (ix) the Lease Payment Fund, (x) the General Reserve Fund and (xi) the Rebate Fund, as each such fund is defined in the Indenture.

**“Project Budget”** means the budget for the Project in the aggregate amount of \$1,451,761,107 attached to this Agreement as **Schedule I** showing a summary of all Eligible Project Costs and the estimated sources and uses of funds for the Project, as amended from time to time with the approval of the TIFIA Lender.

**“Project Costs”** means (a) the costs paid or incurred (to the extent paid, such costs shall be reimbursed to the Person who paid such costs) or to be paid or incurred by the Borrower in connection with or incidental to the acquisition, design, construction and equipping of the Project, including legal, administrative, engineering, planning, design, insurance and financing costs, (b) amounts, if any, required by the Indenture to be paid into any fund or account upon the incurrence of Senior Obligations; (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory prepayment) on any indebtedness of the Borrower (other than the TIFIA Loan) incurred for the Project, including capitalized interest on the Senior Obligation; (d) costs of equipment and supplies and initial working capital and reserves required by the Borrower for the commencement of operation of the Project, including general administrative expenses and overhead of the Borrower other than to the extent such amounts constitute direct or indirect costs unallowable to the Borrower and its contractors under 18 C.F.R. Part 31; and (e) the repayment of obligations incurred by the Borrower, the proceeds of which obligations were used to pay items (a) through (d) of this definition.

**“Project Fund”** has the meaning provided in the Indenture.

**“Project Oversight Agreement”** means initially that certain Stewardship Plan, dated December 2012, between FHWA and the Transportation Cabinet, which agreement is intended to be supplemented or replaced by a separate agreement between FHWA and the Transportation Cabinet after the Closing Date.

**“Qualified Credit Facility”** means, to the extent from time-to-time permitted by law, with respect to Permitted Debt any Credit Facility entered into with a Qualified Credit Provider and meeting the requirements of Section 17(l).

**“Qualified Credit Provider”** means a Credit Provider, organized under or licensed as a branch or agency under the laws of the United States or any state thereof that has an Acceptable Credit Rating.

**“Qualified Hedge”** means, to the extent from time-to-time permitted by law, with respect to Permitted Debt any Hedging Facility (including a Subsequent Qualified Hedge) entered into with a Qualified Hedge Provider and meeting the requirements of Section 16(o).

**“Qualified Hedge Provider”** means any bank or trust company authorized to engage in the banking business that is organized under or licensed as a branch or agency under the laws of the United States or any state thereof that has an Acceptable Credit Rating.

**“Rate Coverage Test”** shall mean the rate coverage test set forth in Section 16(l)(i).

**“Rating Category”** or **“Categories”** means one of the generic rating categories of a Nationally Recognized Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

**“Rebate Fund”** has the meaning provided in the Indenture.

**“Related Documents”** means the Indenture Documents, the TIFIA Loan Documents and the Principal Project Contracts.

**“Required Capital Expenditures”** means Capital Expenditures certified by the Borrower to the Trustee to be required to be made under the Development Agreement, the Indenture or any Principal Project Contract, but excluding any M&R Expenses.

**“Requisition”** has the meaning provided in Section 4(a).

**“Reserve Accounts”** means the General O&M Reserve Fund, the M&R Reserve Fund and the Tolling O&M Reserve Fund.

**“Second Tier Bonds”** has the meaning provided in the Indenture.

**“Second Tier Debt Service Reserve Accounts”** has the meaning provided in the Indenture.

**“Secretary”** means the United States Secretary of Transportation.

**“Section 129 Agreement”** means that certain Agreement by and between the FHWA, the Borrower, the Transportation Cabinet, INDOT and IFA, dated on or about July 25, 2012, regarding tolling of the LSIORB Project.

**“Secured Obligations”** means the Senior Obligations, the obligations of the Borrower under this Agreement, the Hedging Obligations and the Hedging Termination Obligations.

**“Secured Parties”** means the Trustee, the TIFIA Lender, the other Bondholders and, if applicable, any Hedge Provider or Credit Provider.

**“Semi-Annual Payment Date”** means each July 1 and January 1 or, if such date is not a Business Day, the next Business Day following such July 1 or January 1.

**“Senior Obligations”** means the Initial Senior Obligations and any Additional Senior Obligations.

**“Series 2013 Bond Anticipation Obligations”** means those Bond Anticipation Obligations to be issued by the Borrower on or about December 20, 2013.

**“Series Trust Indenture”** means a trust indenture providing for the issuance of a particular series of Bonds pursuant to the Indenture.

**“Servicer”** means such entity or entities as the TIFIA Lender shall designate from time-to-time to perform, or assist the TIFIA Lender in performing, certain duties hereunder.

**“State”** means the Commonwealth of Kentucky.

**“Subordinate Bonds”** has the meaning provided in the Indenture.

**“Subsequent Qualified Hedge”** has the meaning provided in Section 16(o)(iii).

**“Substantial Completion”** means the opening of the Project to vehicular traffic in the Project’s final configuration, which final configuration shall mean all six lanes on each bridge, with all traffic on the New Downtown Bridge flowing northbound and all traffic on the Kennedy Bridge flowing southbound.

**“Substantial Completion Date”** means the date on which Substantial Completion occurs, as such date may be adjusted in connection with an update to the Financial Plan pursuant to Section 22(a)(iii).

**“Supplemental Trust Indenture”** means any trust indenture supplemental to or amendatory of the Indenture or any Series Trust Indenture adopted by the Borrower in accordance with Article VIII and Article IX of the Indenture.

**“Third Tier Bonds”** has the meaning provided in the Indenture.

**“Third Tier Debt Service Account”** has the meaning provided in the Indenture.

**“Third Tier Debt Service Reserve Accounts”** has the meaning provided in the Indenture.

**“TIFIA Bond”** means the Bond delivered by the Borrower in substantially the form of **Exhibit A**.

**“TIFIA Debt Service”** means with respect to any Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the principal portion of the Outstanding TIFIA Loan Balance and any interest payable thereon, in each case, (a) designated as “TIFIA Debt Service” on **Exhibit G** and (b) due and payable on such Semi-Annual Payment Date in accordance with the provisions of Section 9(b).

**“TIFIA Debt Service Account”** means the sub-account established under the Third Tier Debt Service Account pursuant to the Indenture, which sub-account is dedicated to paying debt service in respect of the TIFIA Bond.

**“TIFIA Debt Service Reserve Account”** means the sub-account established under the Third Tier Common Debt Service Reserve Account pursuant to the Indenture, which sub-account is dedicated to supporting debt service payments in respect of the TIFIA Bond.

**“TIFIA Debt Service Reserve Requirement”** means initially \$18,545,360 and, from and after the date of the disbursement of the TIFIA Loan, an amount equal to the Maximum Annual Debt Service with respect to the TIFIA Bond for any Borrower Fiscal Year within the prospective five (5) Borrower Fiscal Year period.

**“TIFIA Interest Rate”** has the meaning provided in Section 6.

**“TIFIA Lender”** has the meaning provided in the preamble hereto.

**“TIFIA Lender’s Authorized Representative”** means the Administrator and any other Person who shall be designated as such pursuant to Section 27.

**“TIFIA Loan”** means the secured loan made by the TIFIA Lender to the Borrower hereunder, pursuant to the Act, in a principal amount not to exceed \$452,200,000 (excluding capitalized interest), to be used to pay Eligible Project Costs.

**“TIFIA Loan Documents”** means this Agreement, the TIFIA Bond and the Transportation Cabinet Direct Agreement.

**“Tolling Body”** means the board established pursuant to the Interlocal Agreement to undertake toll policy related responsibilities as more fully described in the Interlocal Agreement, Development Agreement, and Toll Policy Agreement (as referenced in the definition for Tolling Related Agreement).

**“Tolling O&M Reserve Fund”** has the meaning provided in the Indenture.

**“Tolling Related Agreement”** means the Toll Policy Agreement, the Toll Rate Resolution, the Toll Operations Agreement, the Toll System Integrator Agreement and the Custody Agreement, as each such term is defined in the Development Agreement.

**“Toll System Collection Expenses”** means operation and maintenance expenses incurred by the toll operator selected to run the toll operations of the LSIORB Project that are allocable to the Borrower under the Development Agreement and paid from toll revenues and other sources available to IFA and the Borrower.

**“Total Debt Service Coverage Ratio”** means, for any Calculation Period, the ratio of Authority System Revenues for such Calculation Period to the sum of (a) Annual Debt Service in respect of any Bonds (other than the TIFIA Bond) for such Calculation Period and (b) TIFIA Debt Service for such Calculation Period.

**“Total System Expenses”** means General O&M Expenses, M&R Expenses and Toll System Collection Expenses.

**“Traffic and Revenue Study”** means the Louisville-Southern Indiana Ohio River Bridges Traffic & Revenue Study, dated October 24, 2013, prepared by the Traffic Consultant, and any amendments, supplements or updates thereto.

**“Traffic Consultant”** means initially Steer Davies Gleave and shall include any replacement traffic consultant firm which shall be selected from a list maintained by the Borrower and approved by the TIFIA Lender.

**“Transportation Cabinet”** means the Kentucky Transportation Cabinet, acting by and through its secretary or designee of its secretary.

**“Transportation Cabinet Direct Agreement”** means that certain agreement between the Transportation Cabinet and the TIFIA Lender, dated as of the Effective Date and in the form attached hereto as **Exhibit K**.

**“Trustee”** means The Bank of New York Mellon Trust Company, N.A. in its capacity as trustee for the Bondholders under the Indenture, and any successor trustee appointed pursuant to the terms of the Indenture.

**“Trust Estate”** has the meaning provided in the Indenture.

**“Uncontrollable Force”** means any cause beyond the control of each Borrower Related Party, including: (a) a tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, or act of God (provided that no Borrower Related Party shall be required to settle any strike or labor disturbance in which it may be involved) or (b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of a Borrower Related Party and no Borrower Related Party controls the administrative agency or governmental officer or body; provided that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of a Borrower Related Party.

**“Uniform Commercial Code” or “UCC”** means the Uniform Commercial Code, as in effect from time to time in the State.

**“USDOT”** means the United States Department of Transportation.

**“Variable Interest Rate”** means a variable interest rate to be borne by any Permitted Debt. The method of computing such variable interest rate shall be specified in the Indenture pursuant to which such Permitted Debt is incurred. Such Indenture shall also specify either (i) the particular period or periods of time for which each value of such variable interest rate shall remain in effect or (ii) the time or times upon which any change in such variable interest rate shall become effective.

**“Variable Interest Rate Bonds”** means Permitted Debt which bears a Variable Interest Rate but does not include any Permitted Debt for which the interest rate has been fixed during the remainder of the term thereof to maturity; provided, however, that Permitted Debt bearing a Variable Interest Rate shall not be deemed Variable Interest Rate Bonds if (a) the Issuer or the Borrower has entered into a Qualified Hedge with respect to such Permitted Debt during the period for which such Qualified Hedge is in effect, or (b) such Permitted Debt constitutes Floater/Inverse Floater Debt; provided, further, that Permitted Debt bearing a fixed rate of interest shall be deemed Variable Interest Rate Bonds to the extent that the Issuer or the Borrower has entered into a Qualified Hedge pursuant to which the Borrower or Issuer is obligated to pay a floating rate of interest and receives a fixed rate of interest and shall be deemed to bear interest at the lesser of (i) the Bank Lending Margin plus the fixed rate on the applicable Qualified Hedge (which shall reflect any premium or margin payable thereon) or (ii) the maximum interest rate, if any, payable pursuant to such Qualified Hedge.

**“Variable Interest Rate Senior Obligation”** means any Senior Obligations under the Indenture that accrue interest at a Variable Interest Rate.

SECTION 2. Interpretation. Unless the context shall otherwise require, the words “hereto”, “herein”, “hereof” and other words of similar import refer to this Agreement as a whole. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. Whenever the Borrower’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s knowledge after reasonable and diligent inquiry and investigation. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person’s successors and permitted assigns. Unless the context shall otherwise require, references to sections, subsections, schedules, exhibits, appendices and provisions are to the applicable sections, subsections, schedules, exhibits, appendices and provisions of this Agreement. The schedules and exhibits to this Agreement, and the appendices and schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement. The headings or titles of this Agreement and its sections, schedules or exhibits, as well as any table of contents,

are for convenience of reference only and shall not define or limit its provisions. Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time-to-time in accordance with the terms thereof and hereof. Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 37 and signed by a duly authorized representative of such party.

**SECTION 3. TIFIA Loan Amount.** The principal amount of the TIFIA Loan shall not exceed \$452,200,000; provided, however, in no event shall (i) the maximum principal amount of the TIFIA Loan disbursed by the TIFIA Lender, together with the amount (excluding any interest that is capitalized in accordance with the terms hereof) of any other credit assistance provided under the Act, exceed the lesser of thirty-three percent (33%) of Eligible Project Costs or, if the TIFIA Loan does not receive an Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies, the amount of the Initial Senior Obligations or (ii) the total federal assistance provided to the Project exceed eighty percent (80%) of Eligible Project Costs. TIFIA Loan proceeds shall be disbursed from time-to-time in accordance with Section 4.

**SECTION 4. Disbursement Conditions.**

(a) The proceeds of the disbursement of the TIFIA Loan shall be available solely to pay Eligible Project Costs and may be used to pay or redeem the Series 2013 Bond Anticipation Obligations to the extent of Eligible Project Costs incurred by the Borrower Related Parties from time to time in connection with the Project. TIFIA Loan proceeds shall be disbursed in a single disbursement solely to pay directly for, or to reimburse the Borrower for its prior payment of, Eligible Project Costs incurred in connection with the Project. The disbursement of the TIFIA Loan shall be made pursuant to a requisition and certification (a "Requisition") in the form set forth in **Appendix One to Exhibit D**, along with all documentation and other information required thereby, submitted by the Borrower to, and approved by, the TIFIA Lender, all in accordance with the procedures of **Exhibit D** and subject to (i) the conditions set forth therein and the additional conditions set forth below in this Section 4, (ii) the conditions set forth in Section 13(a) having been satisfied as of the Effective Date, and (iii) the conditions set forth in Section 13(b) having been satisfied as of the disbursement date; provided, however, that no disbursements of TIFIA Loan proceeds shall be made on or after the date that is one (1) year after the Substantial Completion Date.

(b) The Borrower shall deliver copies of the Requisition to the TIFIA Lender, the FHWA TIFIA Joint Program Office (HITJ), the Servicer (if any) and the FHWA Division Office on or before the first day of the month for which the disbursement is requested, or the next succeeding Business Day if such first day is not a Business Day. If the TIFIA Lender shall expressly approve the Requisition or shall not expressly deny the Requisition, disbursement of funds shall be made on the fifteenth (15<sup>th</sup>) day of the month for which the disbursement has been requested, or on the next succeeding Business Day if such fifteenth (15<sup>th</sup>) day is not a Business Day. Express

TIFIA Lender approval or denial shall be substantially in the form annexed hereto as **Appendix Three to Exhibit D**.

(c) The Borrower anticipates that it will draw down all of the proceeds of the TIFIA Loan to reimburse Eligible Project Costs, including for the purpose of paying or redeeming Series 2013 Bond Anticipation Obligations to the extent of Eligible Project Costs incurred by the Borrower Related Parties from time to time in connection with the Project. The Borrower shall deliver to the Lender on or before the tenth (10th) day of the month through and including the month in which the disbursement of the TIFIA Loan is made, or if any such date is not a Business Day, on the next succeeding Business Day, a statement which shall include the following:

(i) the amount of Eligible Project Costs incurred during the preceding month;

(ii) supporting documentation to verify such Eligible Project Costs;

(iii) a certificate from the Borrower's Authorized Representative that:

(A) the Eligible Project Costs described in the report and the related supporting documentation are true, correct and accurate; and

(B) there does not currently exist a Default or, if there does currently exist a Default, the Certificate shall specify all the actions that the Borrower is taking to remedy such Default.

This statement is intended to document Eligible Project Costs in connection with the reimbursement of Eligible Project Costs for the purpose of paying or redeeming, in whole or part, the Series 2013 Bond Anticipation Obligations.

(d) The Lender shall review each such statement for compliance with TIFIA disbursement requirements. Within 14 days of receipt of each such statement, the Lender shall deliver a notice to the Borrower, confirming the Eligible Project Costs approved in the applicable statement and the cumulative amount of Eligible Project Costs approved as of the notice date. The approved amounts of Eligible Project Costs will be disbursed following the Borrower's submittal of a Requisition and upon satisfaction of the conditions precedent to disbursement.

(e) As a condition to the disbursement of the TIFIA Loan, the Borrower shall provide to the TIFIA Lender evidence satisfactory to the TIFIA Lender that as of such TIFIA Loan disbursement, the Outstanding TIFIA Loan Balance (including such disbursement) shall not exceed thirty-three percent (33%) of the total amount of Eligible Project Costs.

SECTION 5. Term. The term of the TIFIA Loan shall extend from the Effective Date to the Final Maturity Date or to such earlier or later date as all amounts due or to become due to the TIFIA Lender hereunder have been paid.

SECTION 6. Interest Rate. The interest rate with respect to the TIFIA Loan (the "TIFIA Interest Rate") shall be three and eighty-eight hundredths percent (3.88%) per annum. Interest will be computed on the Outstanding TIFIA Loan Balance (as well as on any past due interest) from time-to-time on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed and will be compounded semi-annually; provided, however, in the event of a Payment Default, the Borrower shall pay interest on any overdue amount from its due date to the date of actual payment at the Default Rate. Upon the occurrence of an Event of Default described in Section 20(a)(iii) or 20(a)(x), the interest rate on the Outstanding TIFIA Loan Balance shall be the Default Rate and shall continue to bear interest at such rate until, with respect to (a) an Event of Default described in Section 20(a)(iii), such Development Default has been cured or (b) an Event of Default described in Section 20(a)(x), the TIFIA Loan has been paid in full.

SECTION 7. Outstanding TIFIA Loan Balance and Revisions to Exhibit G and the Loan Amortization Schedule.

(a) The Outstanding TIFIA Loan Balance will be (i) increased on each occasion on which the TIFIA Lender shall disburse loan proceeds hereunder, by the amount of such disbursement of loan proceeds; (ii) increased on each occasion on which the interest portion of any TIFIA Debt Service is not paid by the Borrower on the applicable Semi-Annual Payment Date, by the amount of such unpaid interest, which shall be capitalized; and (iii) decreased upon each payment or prepayment of the principal amount of the TIFIA Loan, by the amount of principal so paid. The TIFIA Lender may in its discretion at any time and from time-to-time, or when so requested by the Borrower, advise the Borrower by written notice of the amount of the Outstanding TIFIA Loan Balance as of the date of such notice, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error. Upon any determination of the Outstanding TIFIA Loan Balance, the TIFIA Lender may, but shall not be obligated to, make applicable revisions to **Exhibit G** and the Loan Amortization Schedule pursuant to Section 9 and in such event shall provide the Borrower with a copy of such **Exhibit G** and Loan Amortization Schedule as revised, but no failure to provide or delay in providing the Borrower with such copy shall affect any of the obligations of the Borrower under this Agreement or the other TIFIA Loan Documents. The Loan Amortization Schedule, as of the Effective Date, has been determined based on the anticipated disbursement date for the TIFIA Loan as of the Effective Date.

(b) The TIFIA Lender shall make applicable revisions to **Exhibit G** and the Loan Amortization Schedule pursuant to Section 9(f), (i) as of the Debt Service Payment Commencement Date and (ii) upon any prepayment of the TIFIA Loan; provided that in no event shall the TIFIA Debt Service due on the Debt Service Payment Commencement Date be revised or altered. Upon any such revisions, the TIFIA Lender shall provide the Borrower with copies of such **Exhibit G** and Loan Amortization Schedule as revised, but no failure to provide or delay in providing the Borrower with

such copies shall affect any of the obligations of the Borrower under this Agreement or the other TIFIA Loan Documents. Each of **Exhibit G** and the Loan Amortization Schedule, as of the Effective Date, has been determined based on the anticipated disbursement date for the TIFIA Loan as of the Effective Date.

**SECTION 8.      Security and Priority; Flow of Funds.**

(a) As security for the TIFIA Loan, the Borrower shall pledge, assign and grant, or shall cause to be pledged, assigned and granted, to the Trustee, Liens on the Trust Estate in accordance with the provisions of the Indenture. The TIFIA Loan shall be a Third Tier Bond (as defined in the Indenture), secured by the Liens on the Trust Estate and subordinate, during any period when an Event of Default described in Section 20(a)(ix)(A) has not occurred, only (except as otherwise required by law) to the Lien on the Trust Estate of the Senior Obligations. Upon the occurrence of an Event of Default described in Section 20(a)(ix)(A), the TIFIA Loan shall be secured by a first priority security interest under the Indenture in the Trust Estate on parity with the Senior Obligations that are First Tier Bonds and superior to Second Tier Bonds, Third Tier Bonds and Subordinate Bonds (as each such term is defined in the Indenture).

(b) Except (i) for Permitted Liens, (ii) to the extent otherwise provided in paragraph (a) of this Section, or (iii) as may be entitled to priority as a matter of law, the Trust Estate will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge of the Borrower created under the Indenture, and all action on the part of the Borrower to that end has been duly and validly taken.

(c) The Borrower shall not use Trust Estate to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 8 and the Indenture and shall not apply any portion of the Trust Estate in contravention of this Agreement or the Indenture.

(d) The Indenture provides that all Pledged Receipts shall, except to the extent otherwise provided in Section 503 of the Indenture, be deposited in the Authority System Revenue Fund and applied substantially in the order of priority, as more fully described, and in accordance with the requirements specified in Section 504 of the Indenture, which are set forth in **Exhibit I**.

**SECTION 9.      Payment of Principal and Interest.**

(a) Payment Dates. The Borrower agrees to pay the principal of and interest on the TIFIA Loan by making payments in accordance with the provisions of this Agreement and the Indenture on each Semi-Annual Payment Date and on each other date (including the Final Maturity Date) on which payment thereof is required to be made hereunder.

(b) Payment of TIFIA Debt Service. On each Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the Borrower shall pay TIFIA Debt Service in the amounts set forth in respect of such Semi-Annual

Payment Date on **Exhibit G** hereto, which payments shall be made in accordance with Section 9(d).

(c) Accrual of Amounts on Interim Payment Dates.

(i) If any Senior Obligations or Pari Passu Obligations require the payment of principal or interest on any Interim Payment Date after the Debt Service Payment Commencement Date, the Borrower shall promptly notify the Servicer and the TIFIA Lender thereof in writing, identifying the period covered by such Interim Payment Period and the Interim Payment Date.

(ii) On any such Interim Payment Date, the Borrower shall transfer or otherwise deposit, or cause to be transferred or otherwise deposited, into the TIFIA Debt Service Account during the period on and after the Debt Service Payment Commencement Date, an amount equal to the amount of TIFIA Debt Service due and payable on the next succeeding Semi-Annual Payment Date (as shown on **Exhibit G**, as the same may be revised as provided in Section 7(b)) multiplied by a fraction, the numerator of which is equal to the number of months contained in the Interim Payment Period ending on such Interim Payment Date and the denominator of which is equal to six (6).

(iii) Notwithstanding the foregoing provisions of this Section 9(c) or any other provision of this Agreement, at any time when no Senior Obligations or Pari Passu Obligations are outstanding, or when no Senior Obligations or Pari Passu Obligations are outstanding other than Senior Obligations or Pari Passu Obligations with respect to which principal and interest are payable on Semi-Annual Payment Dates, the TIFIA Debt Service shall be payable only on each Semi-Annual Payment Date (subject to any prepayments pursuant to Section 10). In the event that an Interim Payment Date is other than the first Business Day of a calendar month, the method for calculating any amount required to be transferred or deposited into the TIFIA Debt Service Account pursuant to this Section 9(c) shall be determined at such time by the parties hereto.

(d) Manner of Payment. Payments under this Agreement and the TIFIA Bond shall be made by wire transfer on or before each Payment Date in immediately available funds in accordance with payment instructions provided by the TIFIA Lender's Authorized Representative pursuant to Section 37, as modified in writing from time-to-time by the TIFIA Lender's Authorized Representative. The Borrower may make any such payment or portion thereof (or direct the Trustee to make such payment) with funds then on deposit in the TIFIA Debt Service Account.

(e) Final Maturity Date. Notwithstanding anything herein to the contrary, the Outstanding TIFIA Loan Balance and any accrued interest thereon shall be due and payable in full on the Final Maturity Date (or on any earlier date on which the maturity of the TIFIA Loan shall be accelerated pursuant to the provisions of Section 20).

(f) TIFIA Bond; Adjustments to Loan Amortization Schedule. As evidence of the Borrower’s obligation to repay the TIFIA Loan, the Borrower shall issue and deliver to the TIFIA Lender, on or prior to the Effective Date, the TIFIA Bond substantially in the form of **Exhibit A**, having a maximum principal amount (excluding capitalized interest) of \$452,200,000 (subject to increase or decrease as herein provided) and bearing interest at the rate set forth in Section 6. The TIFIA Lender is hereby authorized to enter on the grid attached to such TIFIA Bond as **Appendix One** the amount of the disbursement made under this Agreement and to amend the Loan Amortization Schedule from time-to-time in accordance with Section 7. Absent manifest error, the TIFIA Lender’s determination of such matters as set forth on **Appendix One** to the TIFIA Bond and the Loan Amortization Schedule shall be conclusive evidence thereof.

**SECTION 10. Prepayment.**

(a) Mandatory. The Borrower shall prepay (or direct the Trustee to prepay) the TIFIA Loan, without penalty or premium, on each July 1 (or, if such date is not a Business Day, on the next Business Day), after the payment of principal and interest due on the Bonds on such date and the deposit and application of Authority System Revenues required by Sections 503 and 504 of the Indenture, a portion of the amount on deposit in the General Reserve Fund (excluding amounts on deposit in the Surplus Account thereof) that exceeds the amount set forth in the following table corresponding to such July 1 (the “General Reserve Annual Surplus”). The Borrower shall apply fifty percent (50%) of the General Reserve Annual Surplus to the prepayment of the TIFIA Loan.

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
July 1, 2018	18,556,445	July 1, 2035	189,024,443
July 1, 2019	27,072,551	July 1, 2036	205,104,716
July 1, 2020	38,430,610	July 1, 2037	212,331,347
July 1, 2021	51,365,294	July 1, 2038	221,675,213
July 1, 2022	64,881,271	July 1, 2039	248,350,276
July 1, 2023	79,037,830	July 1, 2040	282,965,913
July 1, 2024	92,794,959	July 1, 2041	319,861,294
July 1, 2025	97,453,793	July 1, 2042	357,575,263
July 1, 2026	100,887,571	July 1, 2043	400,249,525
July 1, 2027	104,443,473	July 1, 2044	448,823,390
July 1, 2028	108,122,865	July 1, 2045	501,998,381
July 1, 2029	111,929,214	July 1, 2046	553,044,599
July 1, 2030	115,866,252	July 1, 2047	603,222,458
July 1, 2031	119,930,073	July 1, 2048	663,217,118
July 1, 2032	134,216,646	July 1, 2049	731,862,094
July 1, 2033	154,229,175	July 1, 2050	804,337,279
July 1, 2034	173,327,968		

Each prepayment pursuant to this Section 10(a) shall be accompanied by a certificate signed by the Borrower’s Authorized Representative that (i) identifies the provision of

this Agreement pursuant to which such prepayment is being made and (ii) clearly sets forth the amount of such prepayment, distinct from any other amounts of principal or interest paid on such date.

(b) Optional. The Borrower may prepay the TIFIA Loan in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided, however, that such prepayments shall be in principal amounts of \$1,000,000 or any integral multiple thereof), at any time or from time-to-time, without penalty or premium, by paying to the TIFIA Lender such principal amount of the TIFIA Loan to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment. Each prepayment of the TIFIA Loan shall be made on such date and in such principal amount as shall be specified by the Borrower in a written notice delivered to the TIFIA Lender. In the case of any prepayment, such written notice shall be delivered to the TIFIA Lender not less than ten (10) days or more than thirty (30) days prior to the date set for prepayment.

(c) General. Notice having been given as provided in Section 10(b), the principal amount of the TIFIA Loan stated in such notice or the whole thereof, as the case may be, shall become due and payable on the prepayment date stated in such notice, together with interest accrued and unpaid to the prepayment date on the principal amount then being prepaid. The amount of principal and interest due and payable as a result of a mandatory or optional prepayment shall be paid (i) in case the entire unpaid balance of the principal of the TIFIA Bond is to be prepaid, upon presentation and surrender of such TIFIA Bond evidencing the obligation to repay such TIFIA Loan to the Borrower or its representative at the principal office of the TIFIA Lender, and (ii) in case only part of the unpaid balance of principal of such TIFIA Bond is to be prepaid, the TIFIA Lender may make a notation on the TIFIA Bond indicating the amount of principal of and interest on such TIFIA Bond then being prepaid. Upon a partial prepayment of the principal of the TIFIA Loan, the remaining debt service payments hereunder will be recalculated to be an amount sufficient to amortize the remaining Outstanding TIFIA Loan Balance at the TIFIA Interest Rate over the period ending on the Final Maturity Date and the resulting debt service payments will be reflected in a revised **Exhibit G**, and the TIFIA Lender shall, and is hereby authorized by the Borrower to, make the appropriate notations thereof on **Appendix One** to the TIFIA Bond and to revise the Loan Amortization Schedule in accordance herewith. If said monies shall not have been so paid on the prepayment date, such principal amount of such TIFIA Bond shall continue to bear interest until payment thereof at the rate provided for in Section 6.

SECTION 11. [Intentionally Omitted]

SECTION 12. Compliance with Laws. The Borrower shall, and shall require its contractors and subcontractors to, abide by all applicable federal and state laws, including without limitation the Buy America requirements set forth in 23 U.S.C. §313 and implementing regulations (23 C.F.R. §635.410). The list of federal laws attached as **Exhibit E** is illustrative of the type of requirements generally applicable to transportation projects and is not intended to be exhaustive. The FHWA Division Office has oversight responsibility for ensuring compliance

with all applicable provisions of federal law. The Borrower agrees to cooperate with the FHWA Division Office in implementing the Project Oversight Agreement. The Borrower agrees that there will be no irreversible or irretrievable commitment of resources, including physical construction, before all state and/or federal environmental permits required for commencement of construction of the relevant portion of the Project are finalized and approved by the appropriate resource agencies. In the event that an environmental permit that has not been obtained is required after construction has begun, the Borrower shall take immediate steps to acquire that permit. If the Borrower begins construction before all required permits have been obtained, the Borrower shall assume the risk of any loss associated therewith.

**SECTION 13. Conditions Precedent.**

(a) Notwithstanding anything in this Agreement to the contrary, this Agreement shall not become effective and the TIFIA Lender shall have no obligation to make any disbursement of loan proceeds to the Borrower until each of the following conditions precedent shall have been satisfied or waived in writing by the TIFIA Lender:

(i) The Borrower shall have duly executed and delivered to the TIFIA Lender fully executed versions of the Indenture, the TIFIA Bond and the Series Trust Indenture in connection with the TIFIA Bond, each in form and substance satisfactory to the TIFIA Lender and the Trustee.

(ii) (A) Wyatt, Tarrant & Combs LLP, counsel to the Borrower shall have rendered to the TIFIA Lender legal opinions in substantially the form attached hereto as **Exhibit H-1**, (B) Peck, Schaffer & Williams LLP, bond counsel, shall have rendered to the TIFIA Lender legal opinions in substantially the form attached hereto as **Exhibit H-2** and (C) counsel to the Transportation Cabinet shall have rendered to the TIFIA Lender legal opinions in substantially the form attached hereto as **Exhibit H-3**.

(iii) The Borrower shall have delivered to the TIFIA Lender a duly executed certificate from the Trustee in the form attached hereto as **Exhibit J**.

(iv) The Borrower shall have provided to the TIFIA Lender, in each case in the form attached hereto as **Exhibit C**, (A) a certificate executed by an authorized representative of the Borrower as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters with respect to the Borrower, (B) a certificate executed by an authorized representative of the Transportation Cabinet as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters with respect to the Transportation Cabinet and (C) a certificate executed by an authorized representative of the Construction Contractor as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters with respect to the Construction Contractor.

(v) The Borrower shall have provided to the TIFIA Lender evidence satisfactory to the TIFIA Lender that the Project has satisfied the applicable planning and programmatic requirements of 23 U.S.C. §§ 134 and 135.

(vi) The Borrower shall have provided evidence to the TIFIA Lender's satisfaction, not later than fourteen (14) days prior to Effective Date, of the assignment by at least two (2) Nationally Recognized Rating Agencies of an Investment Grade Rating to the Initial Senior Obligations and an Investment Grade Rating to the TIFIA Loan.

(vii) The Borrower shall have delivered to the TIFIA Lender a certificate executed by an authorized representative of the Borrower (A) as to the satisfaction of certain conditions precedent set forth in this Section 13(a), (B) designating the Borrower's Authorized Representative and (C) confirming such person's position and incumbency.

(viii) The Borrower shall have delivered to the TIFIA Lender a certificate executed by an authorized representative of the Transportation Cabinet (A) as to the satisfaction of certain conditions precedent set forth in this Section 13(a), (B) designating the Transportation Cabinet's Authorized Representative and (C) confirming such person's position and incumbency.

(ix) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that the funds forecasted in the Base Case Projections to be available will be sufficient to complete the Project.

(x) The Borrower shall have delivered an original fully executed counterpart (or a certified copy) of the Traffic and Revenue Study in form and substance acceptable to the TIFIA Lender and the Traffic Consultant.

(xi) The Borrower shall have provided to the TIFIA Lender certified copies of the Transportation Cabinet Direct Agreement and each other Principal Project Contract entered into as of the Effective Date, and each such agreement shall be in full force and effect and in form and substance satisfactory to the TIFIA Lender.

(xii) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that all permits and Governmental Approvals necessary to complete construction of the Project have been issued to the Borrower or to the Transportation Cabinet, as applicable, and are in full force and effect.

(xiii) The Borrower shall have delivered to the TIFIA Lender a certified Base Case Financial Model acceptable to the TIFIA Lender on or prior to the Effective Date demonstrating that the projected Authority System Revenue shall be sufficient to meet the Loan Amortization Schedule and satisfy the Rate Coverage Test contained in Section 16(l) hereof.

(xiv) The Borrower shall have made arrangements satisfactory to the TIFIA Lender to pay to the TIFIA Lender, within thirty (30) Business Days after the Effective Date, the reasonable fees and expenses of the TIFIA Lender's counsel and financial advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof.

(xv) The Borrower shall have provided evidence of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.).

(xvi) The TIFIA Lender shall have delivered its initial TIFIA Lender's Authorized Representative certificate.

(xvii) The Borrower shall have delivered such other agreements, documents, instruments, opinions and other items required by the TIFIA Lender, all in form and substance satisfactory to the TIFIA Lender, including evidence that all other Project funding requirements have been met (including evidence of other funding sources or funding commitments and evidence of the closing of the Senior Obligations).

(xviii) The Borrower shall have obtained a Data Universal Number System number, a number from the Federal System for Award Management (formerly the federal Central Contractor Registry), and a Federal Employer Identification Number.

(xix) The Borrower shall have delivered to the TIFIA Lender (A) certificates of insurance evidencing that the Construction Contractor has obtained the insurance policies required by the Development Agreement and the Construction Agreement, which, in the case of the Construction Contractor's liability policies (other than workers' compensation insurance), shall reflect the TIFIA Lender as an additional insured, and (B) at the TIFIA Lender's request, copies of such insurance policies.

(xx) The Borrower shall have provided to the TIFIA Lender (A) evidence that each Borrower Related Party is duly organized and validly existing under the laws of its jurisdiction of formation, with full power, authority and legal right to own its properties and carry on its business as now conducted, and (B) a copy of the Organizational Documents (including any adopted resolutions) for the Borrower, the Joint Board, the Tolling Body and each other committee or body organized thereunder or pursuant to the Development Agreement or the Interlocal Agreement to which a Borrower Related Party is a party or member, as in effect on the Effective Date, certified by the Borrower's Authorized Representative, and which Organizational Documents shall have not been amended since the date of the last amendment thereto shown on the certificate.

(xxi) The Borrower shall have provided the TIFIA Lender records of the Eligible Project Costs incurred prior to the Effective Date, in form

and substance satisfactory to TIFIA Lender and in sufficient time prior to the Effective Date to permit the TIFIA Lender to audit such costs.

(xxii) The Borrower shall have provided evidence to the TIFIA Lender's satisfaction that the performance security instruments to be delivered or received by a Borrower Related Party under any Principal Project Contract in effect as of the Effective Date have been obtained and delivered and that each such instrument is in full force and effect.

(xxiii) The representations and warranties of the Borrower set forth in this Agreement (including Section 14) and in each other Related Document to which it is a party shall be true and correct, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date). The representations and warranties of the Transportation Cabinet set forth in the Transportation Cabinet Direct Agreement and in each other Related Document to which the Transportation Cabinet is a party shall be true and correct, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(b) Notwithstanding anything in this Agreement to the contrary, the TIFIA Lender shall have no obligation to make any disbursement of loan proceeds to the Borrower (including the initial disbursement hereunder) until each of the following conditions precedent has been satisfied or waived in writing by the TIFIA Lender:

(i) Each of the conditions precedent set forth in Section 13(a) shall have been satisfied or waived by the TIFIA Lender as of the Effective Date.

(ii) Each of the Tolling Related Agreements shall have been executed and delivered by each party thereto and each such Tolling Related Agreement shall be on terms and conditions satisfactory to the TIFIA Lender.

(iii) The case *National Trust for Historic Preservation, et al. vs. Federal Highway Administration, et al.*, Case No. 13-6214 (6<sup>th</sup> Cir. Filed September 23, 2013) and all related or associated proceedings or suits, claims, actions, proceedings, arbitrations, hearings, inquiries or investigations, whether commenced or threatened, shall have been finally adjudicated or dismissed, in each case without right of appeal or reconsideration, and any judgment, order, settlement or other arrangement related to the foregoing shall not have resulted in, nor could reasonably be expected to result in, a Material Adverse Effect.

(iv) The Borrower shall have provided to the TIFIA Lender evidence satisfactory to the TIFIA Lender that as of such TIFIA Loan disbursement, the Outstanding TIFIA Loan Balance shall not exceed thirty-three percent (33%) of the total amount of Eligible Project Costs.

(v) The Borrower shall have provided the Financial Plan, or the most recent update thereto, in each case in accordance with Section 22(a), which Financial Plan (or update thereto) reflects that amortization of the principal amount of any Senior Obligations shall not commence until after the Debt Service Payment Commencement Date.

(vi) The Indenture Documents with respect to the Initial Obligations shall each have been executed by each of the parties thereto and delivered to the TIFIA Lender, each in form and substance satisfactory to the TIFIA Lender, and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived (provided, that for purposes of this Section 13(b)(vi), any such waiver shall be subject to the TIFIA Lender's consent in its sole discretion).

(vii) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have provided fully executed and certified copies, in each case in form and substance satisfactory to the TIFIA Lender, of (A) any Indenture Documents with respect to the Initial Obligations or other indebtedness in respect of the Authority System that has been issued or incurred by the Borrower after the Effective Date, (B) each of the Tolling Related Agreements and the Indiana Downtown Property Ground Lease and (C) all available agreements related to the acquisition or control of any Project right-of-way to be acquired with the proceeds of the TIFIA Loan, any other Principal Project Contracts and all Additional Project Contracts (including, in each case, any amendment, modification or supplement thereto).

(viii) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that all permits and Governmental Approvals necessary to complete construction of the Project have been issued to the Borrower or to the Transportation Cabinet, as applicable, and are in full force and effect.

(ix) (A) Each of the insurance policies obtained by the Construction Contractor in satisfaction of the condition in Section 13(a)(xix) shall be in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider; (B) the Borrower shall have obtained property insurance (including business interruption insurance for a period of at least twelve (12) months) in respect of the Project with such policy limits, coverages and other term and conditions as are customary for facilities similar to the Project; and (C) the Borrower shall have delivered certificates of such insurance obtained pursuant to clause (B) above or, at the TIFIA Lender's request, copies of such insurance policies;

(x) The Borrower shall have delivered (A) an updated Schedule 14(u) reflecting the information required pursuant to Section 14(u) with respect to the insurance policies obtained pursuant to clause (B) of Section 13(b)(ix) above, (B) to the extent necessary to make the corresponding representations and warranties true, accurate and complete as of the date of any

disbursement of loan proceeds hereunder, updated versions of Schedule 14(s), Schedule 14(t), Schedule 14(x) and Schedule 14(cc), in each case in form and substance satisfactory to the TIFIA Lender, and (C) to the extent necessary to make the corresponding representations and warranties true, accurate and complete as of the date of any disbursement of loan proceeds hereunder, an updated version of Appendix 1 to the Transportation Cabinet Direct Agreement, in form and substance satisfactory to the TIFIA Lender.

(xi) At the time of, and immediately after giving effect to, the requested disbursement of TIFIA Loan proceeds, (A) no Event of Default or event of default under any other Related Document and (B) no event which with the giving of notice or the passage of time or both would constitute an Event of Default or event of default under any Related Document, in each case, shall have occurred and be continuing.

(xii) The representations and warranties of the Borrower set forth in this Agreement (including Section 14) and in each other Related Document to which it is a party shall be true and correct in all material respects (except to the extent any representation and warranty itself is qualified by "materiality," "Material Adverse Effect" or a similar qualifier, in which case, it shall be true and correct in all respects) as of the date on which the disbursement of the TIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct in all material respects (except to the extent any such representation and warranty itself is qualified by "materiality," "Material Adverse Effect" or a similar qualifier, in which case, it shall be true and correct in all respects) as of such earlier date).

(xiii) The representations and warranties of the Transportation Cabinet set forth in the Transportation Cabinet Direct Agreement and each other Related Document to which it is a party shall be true and correct in all material respects (except to the extent any representation and warranty itself is qualified by "materiality," "Material Adverse Effect" or a similar qualifier, in which case, it shall be true and correct in all respects) as of the date on which the disbursement of the TIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct in all material respects (except to the extent any such representation and warranty itself is qualified by "materiality," "Material Adverse Effect" or a similar qualifier, in which case, it shall be true and correct in all respects) as of such earlier date).

(xiv) [Not Used]

(xv) The TIFIA Lender shall have received a bring down of each of the legal opinions delivered to the TIFIA Lender pursuant to Section 13(a)(ii).

(xvi) Since the date the Borrower submitted the Application to the TIFIA Lender, (A) there shall not have occurred a material adverse change in (1) the legality, validity or enforceability of any material provision of any TIFIA Loan Document or Principal Project Contract, (2) the validity, perfection or priority of the Liens provided under the Indenture on the Trust Estate in favor of the Secured Parties, (3) the TIFIA Lender's rights or remedies available under any TIFIA Loan Document, (4) the right or authority of the Tolling Body or the States' Parties (as defined in the Development Agreement) to set, charge and collect tolls on the LSIORB Project or (5) the right or authority of the States' Parties (as defined in the Development Agreement), whether directly or indirectly through contract with a third party, to construct or operate and maintain the LSIORB Project.

(xvii) The Borrower shall have delivered to the TIFIA Lender a Requisition that complies with the provisions of Section 4, and the TIFIA Lender shall have approved (or deemed to have approved in accordance with Section 4(b)) such Requisition.

(xviii) The Borrower shall have delivered such other agreements, documents, certificates, instruments, opinions and other items required by the TIFIA Lender, all in form and substance satisfactory to the TIFIA Lender.

(xix) As required pursuant to Section 603(b)(9) of the Act, evidence satisfactory to the TIFIA Lender that the total federal assistance provided to the Project shall not exceed eighty percent (80%) of Eligible Project Costs.

**SECTION 14. Representations and Warranties of Borrower.** The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in clauses (b) and (l) of this Section, as of the date on which the disbursement of the TIFIA Loan is requested or made:

(a) Organization; Power and Authority. The Borrower is an independent de jure municipal corporation and political subdivision of the State, has full legal right, power and authority to enter into the Related Documents to which it is a party that are then in existence, to execute the TIFIA Bond, and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of the Related Documents to which it is a party.

(b) Officers' Authorization. As of the Effective Date, the officers of the Borrower executing the Related Documents to which the Borrower is a party are duly and properly in office and fully authorized to execute the same.

(c) Due Execution; Enforceability. Each of the TIFIA Loan Documents to which the Borrower is a party has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding agreement of the Borrower enforceable in accordance with its terms, except as such enforceability (i) may

be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of the Related Documents to which the Borrower is a party, the consummation of the transactions contemplated in the Related Documents and the fulfillment of or compliance with the terms and conditions of such Related Documents will not (i) conflict with any Organizational Documents for the Borrower, the Joint Board, the Tolling Body or any other body or committee established in connection with the Project, or (ii) conflict in any material respect with, or constitute a violation, breach or default (with due notice or the passage of time or both) by the Borrower of or under, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, any Principal Project Contract, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents, except as have been obtained or made and as are in full force and effect or, (ii) (A) the consummation of any transaction contemplated by the Related Documents or (B) the fulfillment of, or compliance by the Borrower with, the terms and conditions of the Related Documents, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or other Governmental Authority, pending or, to the knowledge of the Borrower after reasonable inquiry and investigation, threatened against or affecting the Project, the LSIORB Project, any Borrower Related Entity or the assets, properties or operations of the Borrower, which in any case (i) could reasonably be expected to result in a Material Adverse Effect or (ii) could reasonably be expected to adversely affect the Borrower's ability to receive Authority Toll Revenues in amounts sufficient to meet the revenue projections contained in the Base Case Model. To the Borrower's knowledge, there are no actions of the type described above, pending or threatened against or affecting any of the Principal Project Parties, except for matters arising after the Effective Date that could not reasonably be expected to result in a Material Adverse Effect. The Borrower is not in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. The Indenture establishes, in favor of the Trustee for the benefit of the TIFIA Lender, the valid Liens on the Trust Estate which they purport to create; such Liens are in full force and effect and are not subordinate or junior to any other Liens in respect of the Trust Estate except the extent such other Liens are entitled to priority as a matter of law and the Borrower is not in breach of any covenants set forth in Section 16(a) of this Agreement or the Indenture with respect thereto. As of the date hereof, (i) no documents or instruments are required or necessary to be recorded or filed for record in any place to establish the Trustee's Lien in and to the Trust Estate (for the benefit of the Secured Parties) to the extent contemplated by the Indenture and (ii) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of the Indenture, or any Principal Project Contract in effect as of the date hereof, have been paid.

(h) No Debarment. Neither the Borrower nor any of its principals nor, to the knowledge of the Borrower, any Principal Project Party or any of its respective principals (as defined in 2 C.F.R. § 180.995) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered in substantially the form of **Exhibit C**.

(i) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in each other Related Document to which it is a party are true and accurate, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date). To the best of the Borrower's knowledge, the representations, warranties and certifications of the Transportation Cabinet set forth in the Transportation Cabinet Direct Agreement and each other Related Document to which it is a party are true and accurate, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(j) Compliance with NEPA. The Borrower has complied, with respect to the Project, with all applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.).

(k) Transportation Improvement Program. The Project has been included in the metropolitan transportation improvement program by the designated Metropolitan Planning Organization for the Louisville (KY-IN) Metropolitan Planning Area, in the State transportation plan and the approved State transportation improvement program to the extent required by 23 U.S.C. § 602(a)(3).

(l) Credit Ratings. The obligations of the Borrower under the Indenture with respect to the Senior Obligations have received an Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies, the obligations of the Borrower under this Agreement have received an Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies, written evidence of each such

rating has been provided to the TIFIA Lender prior to the Effective Date, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(m) No Defaults. The Borrower is not in default under the terms of any Related Document to which it is a party, and no event has occurred or condition exists which, with due notice or lapse of time or both, would constitute an Event of Default.

(n) Permits. All authorizations, consents, approvals, licenses, permits and reviews required with respect to the Borrower as of the Effective Date and any subsequent date on which this representation is made (or deemed made) for the undertaking and completion of the Project have been obtained or effected and are in full force and effect and there is no basis for the revocation of any such authorization, consent, commitments or approval.

(o) Principal Project Contracts. Each Principal Project Contract to which the Borrower is a party and that has been executed as of any date this representation and warranty is made is in full force and effect and all conditions precedent to the obligations of the respective parties under each such Principal Project Contract have been satisfied. The Borrower has delivered to the TIFIA Lender a fully executed and complete copy of each such Principal Project Contract (including all exhibits, schedules and other attachments) that is in effect, including any amendments or modifications thereto and any related credit support instruments or side letters. No event has occurred that gives the Borrower or, to the Borrower's knowledge, any Principal Project Party, the right to terminate any such Principal Project Contract. The Borrower is not in breach of any material term in or in default under any of such agreements or contracts, and to the knowledge of the Borrower, no party to any of such agreements or contracts is in breach of any material term therein or in default thereunder.

(p) Information. The information furnished by the Borrower to the TIFIA Lender, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided that no representation or warranty is made with regard to projections or other forward-looking statements provided by or on behalf of the Borrower (including the Base Case Financial Model and the assumptions therein) except that the assumptions in the Base Case Financial Model were reasonable in all material respects when made.

(q) OFAC. None of the Borrower nor, to the knowledge of the Borrower, any Principal Project Party (i) is in violation of: (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act, as amended, and the regulations promulgated thereunder; (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State; or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; or (ii) is a Person (1) that is charged with, or has reason to believe that he, she or it is under investigation for, any violation of any such laws; (2) that has been convicted of any violation of, has been subject to civil penalties pursuant to, or had any of its property seized or forfeited under any such laws; (3) that is named on the list of "Special

Designated Nationals or Blocked Persons” maintained by OFAC (or any successor United States government office or list), or any similar list maintained by the United States Department of State (or any successor United States government office or list); (4) with whom any United States Person, any entity organized under the laws of the United States or its constituent states or territories, or any entity, regardless of where organized, having its principal place of business within the United States or any of its territories, is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable law; (5) that is owned, controlled by, or affiliated with any Person identified in clause (1), (2), (3) or (4) of this clause (ii); or (6) that is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions, laundering and anti-corruption laws of the United States and the jurisdiction where the Person resides, is domiciled or has its principal place of business.

(r) Compliance with Law. The Borrower is in compliance in all material respects with, and has conducted (or caused to be conducted) its business and operations and the business and operations of the Project in compliance in all material respects with, all applicable laws (other than Environmental Laws, which are addressed in clause (s) of this Section 14). To the Borrower’s knowledge, each Principal Project Party is, and has caused its respective contractors and subcontractors to be, in compliance in all material respects with all applicable laws, including those set forth on **Exhibit E**. No notices of violation of any applicable law have been issued, entered or received by any Borrower Related Party or, to the Borrower’s knowledge and solely in respect of the Project or any Principal Project Contract, any Principal Project Party, that in each case could reasonably be expected to result in a Material Adverse Effect.

(s) Environmental Matters. Except as set forth in Schedule 14(s), the Borrower and, to the Borrower’s knowledge, each Principal Project Party is in compliance in all material respects with all applicable laws relating to (i) air emissions, (ii) discharges to surface water or ground water, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes, (vi) biological resources (such as threatened and endangered species) or (vii) other environmental, health or safety matters (collectively, “Environmental Laws”), in each case to the extent related to the Project. All Governmental Approvals for the Project relating to Environmental Laws have been, or, when required, will be, obtained and are (or, as applicable, will be) in full force and effect. Except for matters that have been dismissed with prejudice by the applicable court or adjudicative body, the Borrower has not received any communication or notice (written or oral), whether from a Governmental Authority, employee, citizens group, or any other Person, that alleges that such Borrower Related Party is not in full compliance with all Environmental Laws and Governmental Approvals relating thereto in connection with the Project and, to the Borrower’s knowledge, there are no circumstances that may prevent or interfere with full compliance in the future. Schedule 14(s) lists all Governmental Approvals relating to Environmental Laws for the Project. The Borrower has provided to the TIFIA Lender, including the FHWA Division Office, all assessments, reports, data, results of investigations or audits, and other information in the possession of

or to which any Borrower Related Party has reasonable access regarding environmental matters pertaining to the Project.

(t) Sufficient Rights and Utilities. The Borrower or the Transportation Cabinet possesses either valid legal and beneficial title to, leasehold title in, or other valid legal rights with respect to the real property relating to the Project, in each case as is necessary and sufficient for the construction, operation, maintenance and repair of the Project. The Principal Project Contracts and the Governmental Approvals listed in Schedule 14(t) create rights in the Borrower or the Transportation Cabinet sufficient to enable the Borrower or the Transportation Cabinet, as applicable, to own, construct, operate, maintain and repair the Project and to perform its respective obligations under the Principal Project Contracts to which it is a party or by which it is bound. All utility services, means of transportation, facilities and other materials necessary for the construction and operation of the Project (including, as necessary, gas, electrical, water and sewage services and facilities) are, or will be when needed, available to the Project and arrangements in respect thereof have been made on commercially reasonable terms.

(u) Insurance. Schedule 14(u) lists all insurance policies of any nature maintained by the Borrower with respect to the Project, as well as a summary of the terms of each such policy. The Borrower is in compliance with all insurance obligations required under each Principal Project Contract and has implemented all insurance requirements applicable to the Borrower in any Related Document.

(v) Title. The Borrower or the Transportation Cabinet, as applicable, have valid legal and beneficial title to, or a valid leasehold interest in (or, solely as of the Effective Date with respect to the portion of the Project located in the State of Indiana, other valid and enforceable license or right to), the real and personal property constituting the Project, in each case free and clear of any Lien of any kind, except for Permitted Liens.

(w) No Liens. Except for Permitted Liens, the Borrower has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien upon the Project or any of its revenues, properties or assets in relation to the Project.

(x) Intellectual Property. Except as set forth in Schedule 14(x), the Borrower owns, or has adequate licenses or other valid rights to use, all material patents, trademarks, service marks, trade names, copyrights, franchises, formulas, licenses and other rights with respect thereto and has obtained assignment of all licenses and other rights of whatsoever nature (without, to the Borrower's knowledge, any conflict with the rights of others) that (i) are necessary for the Project and the operation of its business as currently contemplated and (ii) are required to be in the name of, or licensed to, the Borrower to ensure their validity and non-contravention with the rights of others. Excluding the use of commercially available "off-the-shelf" software, to the Borrower's knowledge, no product, process, method, substance, part or other material produced or employed or presently contemplated to be produced by or employed by the Project

infringes or will infringe any patent, trademark, service mark, trade name, copyright, franchise, formula, license or other intellectual property right of any third party.

(y) Investment Company Act. The Borrower is not, and after applying the proceeds of the TIFIA Loan will not be, required to register as an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and is not “controlled” by a company required to register as an “investment company” under the Investment Company Act of 1940, as amended.

(z) Financial Statements. Each income statement, balance sheet and statements of operations and cash flow (collectively, “Financial Statements”) delivered to the TIFIA Lender pursuant to Section 22(d) has been prepared in accordance with GASB and presents fairly, in all material respects, the financial condition of such Person as of the respective dates of the balance sheets included therein and the results of operations of such Person for the respective periods covered by the statements of income included therein. Except as reflected in such Financial Statements, there are no liabilities or obligations of such Person of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GASB.

(aa) Taxes. The Borrower is not required to file tax returns with any Governmental Authority. There are no taxes currently in effect or proposed for which any Borrower Related Party would be subject to the obligations of Section 5.5 of the Development Agreement.

(bb) ERISA. Neither Borrower nor any ERISA Affiliate maintains or otherwise has any liability in respect of any plan or other arrangement that is subject to ERISA or Section 412 of the Code.

(cc) Transactions with Related Governmental Authorities. Other than the Principal Project Contracts and the other agreements set forth on Schedule 14(cc) hereto, the Borrower is not engaged in any transaction or series of transactions with any Governmental Authority or other Person in connection with the Project.

(dd) Sufficient Funds. The aggregate of (i) all funds that are drawn or undrawn but committed or reasonably expected to be available, in each case under the Indenture and the Lease Agreement, (ii) the proceeds of GARVEE bonds issued on behalf of the Transportation Cabinet, which proceeds have been set aside in a separate account and are dedicated to paying for Project Costs, (iii) the proceeds of Bond Anticipation Obligations included in the Initial Obligations issued by the Borrower, which proceeds will be (as of the Effective Date) or have been (as of the date of any disbursement of the TIFIA Loan) set aside in a separate account and dedicated to paying for Project Costs, (iv) receivable delay payments and insurance proceeds in respect of any casualty loss (other than any proceeds of business interruption insurance, delay-in-start-up insurance and proceeds covering liability of the Borrower to third parties) and (v) other funds, including Federal highway funds, that have been appropriated to the Project by the applicable Governmental Authority as of the date this representation and warranty is made or that have been included in the Transportation Cabinet’s six year highway plan

covering Borrower Fiscal Years 2014 – 2018 and that will be available as and when needed (or, in respect of amounts in the Transportation Cabinet’s six year highway plan that remain subject to appropriation, are reasonably expected to be available as and when needed) and used exclusively for Project Costs when received, in each case in accordance with all applicable laws and legal requirements, are expected to be sufficient to pay all Eligible Project Costs and other amounts necessary to achieve Substantial Completion.

(ee) Federal Involvement. As required pursuant to Section 603(b)(9) of the Act, the total federal assistance provided to the Project does not exceed eighty percent (80%) of Eligible Project Costs.

(ff) Patriot Act. To the extent the Patriot Act is applicable to any Borrower Related Party, the Borrower and, to the Borrower’s actual knowledge, each such other Borrower Related Party, has established an anti-money laundering compliance program as required by the Patriot Act.

(gg) East End Crossing Property. Neither Borrower Related Party is subject to any potential liability to INDOT or IFA in connection with Section 5.1.1 of the Development Agreement in connection with the acquisition of the Kentucky East End Property (as defined in the Development Agreement) for the LSIORB Project or any part thereof.

**SECTION 15. Representations, Warranties of TIFIA Lender**. The TIFIA Lender represents and warrants that:

(a) Power and Authority. The TIFIA Lender has all requisite power and authority to make the TIFIA Loan and to perform all transactions contemplated by the Related Documents to which it is a party.

(b) Due Execution; Enforceability. The Related Documents to which it is a party have been duly authorized, executed and delivered by TIFIA Lender, and are legally valid and binding agreements of the TIFIA Lender, enforceable in accordance with their terms.

(c) Officers’ Authorization. The officers of the TIFIA Lender executing each of the Related Documents to which the TIFIA Lender is a party is duly and properly in office and fully authorized to execute the same on behalf of the TIFIA Lender.

**SECTION 16. Affirmative Covenants**. The Borrower covenants and agrees as follows until the date all Secured Obligations (other than contingent indemnity obligations) are paid in full and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

(a) Securing Liens. The Borrower shall at any and all times, 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 for the better assuring, conveying, granting,

assigning, securing and confirming the Liens in and to the Trust Estate (whether now existing or hereafter arising) granted to the Trustee for the benefit of the Bondholders including the TIFIA Lender pursuant to the Indenture, or intended so to be granted pursuant to the Indenture, or which the Borrower may become bound to grant, and the Trust Estate is and will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that has priority over, or equal rank with, the Liens created by the Indenture, other than as expressly permitted by this Agreement, and all corporate action on the part of the Borrower to that end shall be duly and validly taken at such times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Trust Estate granted pursuant to the Indenture and all the rights of the Trustee for the benefit of the TIFIA Lender under the Indenture Documents against all claims and demands of all Persons whomsoever, subject to Permitted Liens.

(b) Copies of Documents.

(i) The Borrower shall furnish to the TIFIA Lender a copy of any offering document and cash flow projections prepared in connection with the incurrence of any Permitted Debt or any other indebtedness approved by the TIFIA Lender in writing (including any Series Trust Indenture and any Supplemental Trust Indenture), prior to the incurrence of any such Permitted Debt or other indebtedness, as well as copies of any offering statements, continuing disclosure documents, Series Trust Indentures or Supplemental Trust Indentures prepared by or on behalf of the Borrower in connection with the incurrence of such Permitted Debt, in each case promptly following the preparation or filing thereof.

(ii) The Borrower shall provide to the TIFIA Lender for review and comment a proposed execution version of each Tolling Related Agreement at least thirty (30) days prior to the expected date of execution thereof. The Borrower shall incorporate the TIFIA Lender's comments to each such Tolling Related Agreement to the extent not impracticable, provided the TIFIA Lender delivers comments to such Tolling Related Agreement within thirty (30) days after the date it receives the draft of such agreement noted above.

(iii) The Borrower shall provide to the TIFIA Lender, promptly after execution thereof, a copy of each Additional Project Contract.

(c) Use of Proceeds. The Borrower shall use the proceeds of the TIFIA Loan only to pay, or to reimburse the Borrower for, Eligible Project Costs. The Borrower shall use the proceeds of the Bond Anticipation Obligations included in the Initial Obligations solely to pay, or to reimburse the Borrower for, Project Costs and to fund reserves under the Indenture.

(d) Prosecution of Work. The Borrower shall diligently prosecute the work relating to the Project and complete the Project in accordance with the Construction Schedule, and in accordance with the highest standards of Borrower's and the Construction Contractor's industry, using its best efforts at all times.

(e) Operations and Maintenance. The Borrower shall, and shall cause the Transportation Cabinet to, (A) operate and maintain the Authority System (1) in a reasonable and prudent manner and (2) substantially in accordance with the Financial Plan (except as necessary to prevent or mitigate immediate threats to human health and safety or to prevent or mitigate physical damage to material portions of the Authority System) and (B) maintain the Authority System in good repair, working order and condition and in accordance with the requirements of the Principal Project Contracts. The Borrower shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the rights, licenses, permits, franchises and authorizations material to the conduct of its business, and comply in all material respects with all applicable federal, state and local laws, rules, regulations, orders, decrees, judgments or administrative decisions, whether now in effect or hereafter enacted, of any Governmental Authority having jurisdiction over the Borrower or its assets or operations.

(f) Insurance.

(i) By no later than the date of the disbursement of the TIFIA Loan, the Borrower shall obtain property insurance (including business interruption insurance for a period of at least twelve (12) months) in respect of the Project with such policy limits, coverages and other term and conditions as are customary for facilities similar to the Project. The Borrower shall maintain such policies of insurance in effect at all times during the term of this Agreement and shall promptly pay all insurance premiums related thereto as and when due.

(ii) The Borrower shall at all times maintain insurance on the Project in accordance with the requirements of the Borrower set forth in this Agreement or any other Related Document and, otherwise, with responsible insurers, as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to such works or properties.

(iii) The Borrower shall deliver to the TIFIA Lender (whether delivered originally to the Borrower or to the Transportation Cabinet) (A) certifications, notices and reports of any insurance broker or advisor in respect of insurance with respect to the Authority System, (B) insurance brokers' letters and (C) certificates of insurance, in each case, as and when such materials may be required to be delivered pursuant to the Indenture or the Principal Project Contracts and, upon the request of the TIFIA Lender, copies of underlying insurance policies obtained by or on behalf of the Borrower.

(g) Notice. The Borrower shall, within five (5) Business Days after the Borrower learns of the occurrence, give the TIFIA Lender notice of any of the following events, setting forth details of such event:

(i) Events of Default: any Event of Default or any event which, given notice or the passage of time or both, would constitute an Event of Default;

(ii) Litigation: the filing of any actual litigation, suit or action, or the delivery to the Borrower of any written claim that could reasonably be expected to have a Material Adverse Effect;

(iii) Insurance Claim: any insurance claims relating to the Project in excess of \$1,000,000 either individually or in the aggregate;

(iv) Amendments: any amendments delivered to, received from or entered into with any counterparty under a Principal Project Contract (including complete copies of such amendments);

(v) Defaults: any material breach or default or event of default on the part of the Borrower or any other party under any Principal Project Contract;

(vi) Uncontrollable Force: the occurrence of any Uncontrollable Force affecting either the Authority System or any other portion of the LSIORB Project;

(vii) Project Changes: any (A) change to the Project Cost forecasts in excess of five million dollars (\$5,000,000) or (B) material change to the Construction Schedule;

(viii) Operations and Maintenance Expense Increases: following the Substantial Completion Date, any increase in Total System Expenses or Capital Expenditures for any Borrower Fiscal Year in excess of one hundred ten percent (110%) of the amount budgeted therefor in the Financial Plan for such Borrower Fiscal Year;

(ix) Lease Agreement Payments by Transportation Cabinet: the amount and purpose of any payment requested from the Transportation Cabinet pursuant to the Lease Agreement and the amount actually paid by the Transportation Cabinet in respect of such request; and

(x) Other Adverse Events: the occurrence of any other event or condition that could reasonably be expected to result in a Material Adverse Effect.

(h) Remedied Action. Within thirty (30) calendar days after the Borrower (or its representatives to any committee or body established in connection with the LSIORB Project) learns of the occurrence of an event specified in Section 16(g) (other than the events specified in sub-clauses (iv) and (ix) thereof), the Borrower's Authorized Representative shall provide a statement setting forth the actions the Borrower proposes to take with respect thereto (or, in the case of an event affecting a portion of the LSIORB Project other than the Project, the actions that INDOT, IFA or the East End Crossing Developer proposes to take).

(i) Maintain Legal Structure. To the extent permitted by law, the Borrower shall maintain its existence as an independent de jure municipal corporation and political subdivision of the State.

(j) Annual Rating. The Borrower shall, commencing in 2014, no later than the last Business Day of June of each year during the term of the TIFIA Loan, at no cost to the TIFIA Lender, provide to the TIFIA Lender a rating on the Senior Obligations and the TIFIA Loan by a Nationally Recognized Rating Agency, together with the rating report or letter delivered by such Nationally Recognized Rating Agency in connection with such rating, in each case prepared no earlier than June 1 of such year.

(k) Project Accounts.

(i) The Borrower shall maintain in the First Tier Debt Service Reserve Accounts, the Second Tier Debt Service Reserve Accounts and the Third Tier Debt Service Reserve Accounts, respectively, the applicable Debt Service Reserve Requirement (including the TIFIA Debt Service Reserve Requirement in the TIFIA Debt Service Reserve Account or, following a Bankruptcy Related Event affecting the Borrower, the Revenue Subaccount (as defined in the Indenture) of the First Tier Debt Service Reserve Account), in each case in accordance with the provisions of the Indenture. Amounts in the First Tier Debt Service Reserve Accounts shall be made available to ensure the timely payment of Annual Debt Service on all First Tier Bonds, amounts in the Second Tier Debt Service Reserve Accounts shall be made available to ensure the timely payment of Annual Debt Service on all Second Tier Bonds, and amounts in the Third Tier Debt Service Reserve Accounts shall be made available to ensure the timely payment of Annual Debt Service payments on all Third Tier Bonds (including, in respect of the TIFIA Debt Service Reserve Account, amounts to ensure the timely payment of TIFIA Debt Service on the TIFIA Loan); provided, that from and after the occurrence of a Bankruptcy Related Event affecting the Borrower, amounts in the Revenue Subaccount (as defined in the Indenture) of the First Tier Debt Service Reserve Accounts shall be made available to ensure the timely payment of Annual Debt Service on all First Tier Bonds, including the TIFIA Bond. Subject to Section 17(l), the Borrower may replace all or a portion of the required balance of each such account, in accordance with the terms of the Indenture, with an irrevocable letter of credit, insurance policy or similar instrument provided by a financial institution with a long-term credit rating in one of the top two (2) Rating Categories.

(ii) The Borrower shall cause the other Reserve Accounts to be funded in such amounts and under such conditions as are required by the Indenture.

(iii) The Borrower shall cause all Authority Toll Revenues to be deposited into the Authority System Revenue Fund. The Borrower shall cause (A) all payments under the Lease Agreement to be deposited into the appropriate Reserve Account in accordance with the terms of the Lease Agreement and (B) all

payments pursuant to Section 4.07 of the Lease Agreement to be deposited into the Project Fund under the Indenture.

(iv) Amounts on deposit in the Project Accounts shall be held uninvested or invested in Permitted Investments. Any such Permitted Investments must mature or be redeemable at the election of the holder on or prior to the date on which the funds invested in such Permitted Investments are needed for any payment from the applicable Project Account.

(l) Rate Coverage. All terms used in this Section 16(l) that are not otherwise defined in this Agreement shall have the meanings assigned to such terms in the Indenture.

(i) The Borrower, in accordance with the Development Agreement or the Toll Policy Agreement, shall use its best efforts to provide for the establishment of, and to charge and collect, Tolls for the privilege of traveling on the System, at rates sufficient so that Authority System Revenues are in an amount at least equal to (A), (B), (C), (D) and (E):

(A) 150% of the Annual Debt Service with respect to all Outstanding First Tier Bonds;

(B) 135% of the Annual Debt Service with respect to all Outstanding First Tier Bonds and Second Tier Bonds;

(C) 125% of the Annual Debt Service with respect to all Outstanding First Tier Bonds, Second Tier Bonds and Third Tier Bonds;

(D) 110% of the Annual Debt Service with respect to all Outstanding Bonds; and

(E) 100% of the aggregate amount of the required payments described in subsections (a) through (j) of Section 504 of the Indenture to the extent such payments have not been otherwise paid or provided for from Bond proceeds;

(ii) The Borrower will at least annually, prior to June 30 of each Fiscal Year, review the financial condition of the System, the anticipated Total System Expenses, Debt Service Requirements, various reserves and other costs of the Authority System, and proceed in a timely fashion to recommend to the Tolling Body any required adjustment to the Toll Rate Schedule it determines is necessary to comply with Section 16(l)(i) above to provide sufficient Authority System Revenue to fund amounts required to be deposited and maintained in the Funds and Accounts and to comply with other relevant covenants in the Indenture and this Agreement.

(iii) Prior to recommending any revision in the Toll Rate Schedule, the Borrower, shall obtain: (i) a certificate of the Traffic Consultant stating, based upon reasonable assumptions and applying the revised Toll Rate Schedule, the

projected Total System Revenue for the then-current Fiscal Year and each subsequent Fiscal Year through the last scheduled maturity of all then-Outstanding Bonds, (ii) a certificate of the Consulting Engineer stating, based upon reasonable assumptions, the projected Total System Expenses for the then-current Fiscal Year and each subsequent Fiscal Year through the last scheduled maturity of all Outstanding Bonds, and (iii) a certificate of an Authorized Representative stating that, based upon the information contained in the certificates described in (i) and (ii) above, the adoption of the revised Toll Rate Schedule will not cause Toll Revenue to decrease to an amount that will cause the Borrower to fail to comply with the requirements of Section 16(l)(i) above. Any certificate delivered by the Traffic Consultant pursuant to this subsection shall be based on the opinion of the Traffic Consultant as to Total System Revenue to be derived by the Borrower from the System under the terms of the Development Agreement and the Toll Policy Agreement (provided that investment and other income not related to Tolls shall be estimated by an Authorized Representative), and a certificate of an Authorized Representative stating the opinion of the Borrower as to the amount of Total System Expenses paid or accrued during any pertinent Fiscal Year, assuming that the proposed Toll Rate Schedule had been in effect during the pertinent Fiscal Year.

(iv) The failure in any Fiscal Year to obtain Authority System Revenue in the amounts sufficient to enable the Borrower to comply with subsection (a) above, which failure may continue during the succeeding Fiscal Year, shall not, in and of itself, constitute an Event of Default if (i) the Borrower within 60 days after the end of the each Fiscal Year, requests the written recommendations of the Traffic Consultant as to how to increase Authority Toll Revenue and the written recommendations of a Consulting Engineer as to how to reduce Total System Expenses in the following Fiscal Year to the level required to comply with Section 16(l)(i) above, (ii) within 60 days of the date of the request from the Borrower, the Traffic Consultant and/or the Consulting Engineer provide to the Borrower the written recommendations described in clause (i), and (iii) the Borrower takes steps to implement those recommendations within 30 days after receipt thereof and diligently proceeds to substantially comply with the recommendations of the Traffic Consultant and the Consulting Engineer.

(m) Notices and Requests to Transportation Cabinet. The Borrower shall promptly notify the Transportation Cabinet under any circumstances where Rent or Additional Rent (each as defined in the Lease Agreement) or amounts to complete the Project as provided in Section 4.07 of the Lease Agreement may reasonably be expected to be required. In such notice, the Borrower shall request that the Transportation Cabinet pay such required amounts in accordance with the Lease Agreement. The Borrower shall provide to the TIFIA Lender copies of any documentation provided to the Transportation Cabinet or received from the Transportation Cabinet in connection with any such request, including copies of any appropriation requests submitted by the Transportation Cabinet to the General Assembly of the State, any budget act provisions relating to such appropriation request, and any other material approvals, authorizations or correspondence relating thereto.

(n) Material Obligations. The Borrower shall pay its material obligations promptly and in accordance with their terms and pay and discharge promptly

all taxes, assessments and governmental charges or levies imposed upon it or upon the Trust Estate or its other income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, might give rise to a Lien upon such properties or any part thereof; provided, however, that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GASB, applied on a consistent basis.

(o) Hedging.

(i) To protect against fluctuations in interest rates, the Borrower shall make arrangements for a Qualified Hedge to be in place and maintained at all times with respect to the Senior Obligations during any period in which the Senior Obligations bear interest at a Variable Interest Rate. The Qualified Hedge must have an aggregate stated notional amount of not less than ninety-eight percent (98%) (and not more than one hundred two percent (102%)) of the aggregate principal amount of the Variable Interest Rate Senior Obligations projected to be outstanding during the term of the Qualified Hedges and have a stated maturity or termination date not earlier than the final maturity date of the Senior Obligations to be hedged. The Borrower, at all times when the TIFIA Loan is outstanding, shall have in full force and effect Qualified Hedges with an aggregate notional amount of not less than ninety-eight percent (98%) (and not more than one hundred two percent (102%)) of the aggregate principal amount of the Variable Interest Rate Senior Obligations projected by the Borrower from time to time to be outstanding during the term of the TIFIA Loan, and such Qualified Hedges shall have a stated maturity or termination date not earlier than the final maturity date of such Variable Interest Rate Senior Obligations.

(ii) Each Qualified Hedge shall provide for a Loan Underwriting Rate that is satisfactory to the TIFIA Lender in its sole discretion. The Borrower's obligations to pay (A) any payments required in connection with the acquisition of a Qualified Hedge to assure that the fixed interest rate to be paid by the Borrower or interest rate cap provided to the Borrower under the Qualified Hedge, together with the Bank Lending Margin, shall be at or below the Loan Underwriting Rate, (B) Hedging Obligations and (C) Hedging Termination Obligations shall be from the sources and in the priority specified in the Indenture. Each Qualified Hedge shall be secured and documented on terms and conditions approved by the TIFIA Lender.

(iii) The Borrower shall ensure that, as of the day following the termination date of any Qualified Hedge, either (I) a Subsequent Qualified Hedge (as defined below) is in full force and effect to the extent the Senior Obligations bear interest at a Variable Interest Rate or (II) the Variable Interest Rate Senior Obligations have been converted to a fixed rate, in each case in

accordance with this Agreement and the Indenture. Any Qualified Hedge entered into as of the expiration of a prior Qualified Hedge (a "Subsequent Qualified Hedge") shall (A) commence no later than the termination date of the Qualified Hedge which is terminating and terminate no earlier than the final maturity date of the Variable Interest Rate Senior Obligations.

(iv) The Borrower shall not commence seeking any bids from any Qualified Hedge Provider for any Qualified Hedge unless, at least thirty (30) days prior thereto, the Borrower has delivered to the TIFIA Lender evidence satisfactory to the TIFIA Lender and certified by the Borrower that the process to be utilized by the Borrower for selecting such Qualified Hedge is a competitive process designed to obtain a fair market price and to avoid conflicts of interest. At the time the Qualified Hedge is priced, the Borrower shall provide to the TIFIA Lender a certificate from a qualified third party acceptable to the TIFIA Lender to the effect that either the underlying LIBOR based fixed rate or the price of acquiring such Qualified Hedge is a fair price based on the interest rate market at the time such Qualified Hedge is priced.

(v) The Trustee shall be granted a security interest in each Qualified Hedge and payments due under each Qualified Hedge in order to secure the Borrower's obligations to the TIFIA Lender under this Agreement. The Hedge Facility shall provide that all payments due thereunder to the Borrower shall be made directly to the Trustee for deposit and disbursement in accordance with the Indenture.

(vi) The Borrower shall neither terminate (other than Permitted Hedging Terminations), transfer nor consent to any transfer (other than to a Qualified Hedge Provider) of any existing Qualified Hedge without the TIFIA Lender's prior written consent as long as the Borrower is required to maintain a Qualified Hedge pursuant to this Agreement.

(vii) If at any time a Hedging Bank no longer satisfies the requirements for a Qualified Hedge Provider, the Borrower shall cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider within ten (10) Business Days of the date on which such Hedging Bank failed to qualify as a Qualified Hedge Provider, whether by means of a transfer of the disqualified Hedging Bank's Hedge Facility to a Qualified Hedge Provider or by means of a termination of such disqualified Hedging Bank's Hedge Facility and replacement thereof by a Hedge Facility with a Qualified Hedge Provider on terms and conditions that satisfy the requirements of this Section 16(o).

(p) OFAC Compliance. The Borrower shall not, nor shall it knowingly permit the Transportation Cabinet, any Principal Project Party or any Person owning (excluding Persons owning securities effected on a recognized public stock exchange, unless such securities were acquired in a transaction involving an initial public offering) or Controlling any of them, in each case if the OFAC regulations are applicable to such entity, to, (i) violate (A) any applicable anti-money laundering laws, including

those contained in the Bank Secrecy Act, (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State, or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; or (ii) be a Person (A) that is charged with, or has reason to believe that he, she or it is under investigation for, any violation of any such laws, (B) that has been convicted of any violation of, has been subject to civil penalties pursuant to, or had any of its property seized or forfeited under any such laws, (C) that is named on the list of "Special Designated Nationals or Blocked Persons" maintained by OFAC (or any successor United States government office or list), or any similar list maintained by the United States Department of State (or any successor United States government office or list), (D) with whom any United States Person, any entity organized under the laws of the United States or its constituent states or territories, or any entity, regardless of where organized, having its principal place of business within the United States or any of its territories, is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable law, (E) that is owned, controlled by, or affiliated with any Person identified in clause (A), (B), (C) or (D) of this clause (ii), or (F) is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions, anti-money laundering and anti-corruption laws of the United States and the jurisdiction where the Person resides, is domiciled or has its principal place of business. The Borrower shall not knowingly make a payment to any Principal Project Party that has violated any of the laws referenced in clause (i) of the preceding sentence or that is a Person described in clause (ii) of the preceding sentence.

(q) Principal Project Contracts. The Borrower shall comply in all material respects with each of the Principal Project Contracts to which it is a party or by which it is bound.

(r) Events of Loss; Loss Proceeds. If an Event of Loss shall occur with respect to the Authority System or any part thereof, the Borrower shall (A) diligently pursue all of its rights to compensation against all relevant insurers, reinsurers and Governmental Authorities, as applicable, in respect of such event and (B) pay or apply all Loss Proceeds stemming from such event to the repair, reconstruction or replacement of the damaged or destroyed property in accordance with Section 714 of the Indenture; provided, that the Borrower shall cause all proceeds paid in respect of any business interruption insurance policy or similar arrangement to be deposited into the Authority System Revenue Fund; provided, further, that to the extent the Borrower has issued Emergency Repair Bonds (as defined in the Indenture) to finance all or a portion of the costs of repairing, reconstructing or replacing the damaged property, the Borrower shall apply any such Loss Proceeds to redeem and retire such Emergency Repair Bonds, except to the extent that a Consulting Engineer, in a certificate addressed and delivered to the TIFIA Lender, demonstrates that such Loss Proceeds are needed to complete such repair, reconstruction or replacement in a manner the restores the Project to substantially the same condition it was in prior to such Event of Loss.

**SECTION 17. Negative Covenants.** The Borrower covenants and agrees as follows until the date all Secured Obligations (other than contingent indemnity obligations) are paid in full and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

(a) **Indebtedness.** Except for Permitted Debt, the Borrower shall not without the prior written consent of the TIFIA Lender issue or incur indebtedness of any kind or enter into a Series Trust Indenture or Supplemental Trust Indenture. Prior to the incurrence of Permitted Debt described in clauses (b) and (d) of the definition thereof, the Borrower shall provide (i) copies of any draft Series Trust Indentures or Supplemental Trust Indentures prepared by or on behalf of the Borrower in connection with the incurrence of such Permitted Debt and (ii) a certificate to the TIFIA Lender certifying that such proposed indebtedness is authorized pursuant to this Section 17(a).

(b) **No Lien Extinguishment or Adverse Amendments.** The Borrower shall not, without the prior written consent of the TIFIA Lender, either (i) extinguish the Liens on the Trust Estate, except as provided under the Indenture, or (ii) (A) amend Section 722 of the Indenture, (B) amend, modify or supplement any Indenture Document or enter into a new Indenture Document (and the Borrower, to the extent it has any power to authorize its representative to vote in a particular way, shall not authorize its representative to the Joint Board or the Tolling Body (or other committee established thereunder or pursuant to the Development Agreement or Interlocal Agreement) to vote in favor of any such amendment, modification, supplement or entry), in each case to which the Borrower, the Joint Board or the Tolling Body is a party or has consent authority, in a manner that could adversely affect the TIFIA Lender in connection with the TIFIA Loan, (C) waive or permit a waiver (and the Borrower, to the extent it has any power to authorize its representative to vote in a particular way, shall not authorize its representative to the Joint Board or the Tolling Body (or other committee established thereunder or pursuant to the Development Agreement or Interlocal Agreement) to vote in favor of any such waiver) of any provision of any Related Document, in each case to which the Borrower, the Joint Board or the Tolling Body is a party or has consent authority or by which the Borrower is bound, in a manner that could adversely affect the TIFIA Lender in connection with the TIFIA Loan, or (D) terminate, assign, amend or modify, or waive timely performance by any party (and the Borrower, to the extent it has any power to authorize its representative to vote in a particular way, shall not authorize its representative to the Joint Board or the Tolling Body (or other committee established thereunder or pursuant to the Development Agreement or Interlocal Agreement) to vote in favor of any such termination, assignment, amendment, modification or waiver) of material covenants under any Principal Project Contract to which the Borrower, the Joint Board or the Tolling Body is a party or has consent authority or by which the Borrower is bound, except for a termination, assignment, amendment, modification or waiver that could not reasonably be expected to have a Material Adverse Effect. Except as otherwise agreed by the TIFIA Lender in writing, the Borrower will provide to the TIFIA Lender copies of any proposed amendments to any Related Document at least thirty (30) days prior to the effective date thereof.

(c) No Prohibited Liens. Except for Permitted Liens, the Borrower shall not create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof.

(d) No Restricted Payments. Amounts in the General Reserve Fund shall be used by the Borrower to pay expenses directly relating to the Authority System or to pay debt service on Bonds, including, but not limited to, fees and expenses of Credit Providers, Hedge Termination Payments and the payment of the debt service (or Hedge Payments) on any Subordinate Bonds. Amounts withdrawn from the General Reserve Fund and deposited in the Authority System Revenue Fund in any Fiscal Year shall not be treated as Authority System Revenue received in that Fiscal Year.

(e) Principal Project Contracts; Additional Project Contracts. The Borrower shall not, without the prior written consent of the TIFIA Lender: (i) enter into any Principal Project Contract that is not in effect as of the Effective Date; provided, that, subject to Section 16(b)(ii), the TIFIA Lender's approval shall not be required with respect to any Tolling Related Agreement; (ii) enter into any Additional Project Contract (or series of related contracts or agreements) that both (A) commits the Borrower to spend, or is reasonably expected to involve expenditures by the Borrower of, more than \$10,000,000 and (B) will result in an increase to aggregate Project Costs; or (iii) to the extent the it has any power to authorize its representative to vote in a particular way, authorize its representative to the Joint Board or the Tolling Body (or other committee established thereunder or pursuant to the Development Agreement or Interlocal Agreement) to vote in favor of any contract or delegation of authority to enter into any Principal Project Contract or any Additional Project Contract subject to clause (ii) above through its participation on the Joint Board, Tolling Body or other committee established thereunder or pursuant to the Development Agreement or Interlocal Agreement.

(f) No Prohibited Sale or Assignment. Except for the grant of a lease to the Transportation Cabinet in accordance with the Lease Agreement, the Borrower shall not sell, assign or lease its rights in and to the Project, a substantial portion of the assets included in the Project, or its rights and obligations under any Related Document.

(g) Transactions With Other Governmental Authorities. Except for the grant of a lease to the Transportation Cabinet in accordance with the Lease Agreement and the transactions expressly contemplated in the Principal Project Contracts, the Borrower shall not sell or transfer any property or assets to, or purchase or acquire any property or assets of, or otherwise engage in any other material transactions in connection with the LSIORB Project with, any other Governmental Authority (including Governmental Authorities of the State or of the state of Indiana) without the TIFIA Lender's prior written consent.

(h) Organizational Documents; Fiscal Year. The Borrower shall not at any time (i) agree to amend or modify the Organizational Documents (including any resolutions) with respect to the Borrower, the Joint Board, the Tolling Body or of any committee or body organized thereunder or pursuant to the Development Agreement or

the Interlocal Agreement to which the Borrower is a party or member (and the Borrower, to the extent it has any power to authorize its representative to vote in a particular way, shall not authorize its representative to the Joint Board or the Tolling Body (or other committee established thereunder or pursuant to the Development Agreement or Interlocal Agreement) to vote in favor of any such amendment or modification), other than any amendment or modification that is of a ministerial nature and that is not adverse to the interests of any Secured Party under the Indenture or in the Trust Estate or (ii) adopt any fiscal year other than the Borrower Fiscal Year, in each case except upon thirty (30) days' prior written notice to the TIFIA Lender.

(i) No Additional Projects. The Borrower will not at any time engage in any Additional Project (as defined in the Indenture) without the TIFIA Lender's prior written consent, which consent may be withheld by the TIFIA Lender in its sole discretion.

(j) No Prohibited Business. The Borrower will not at any time engage in any business or activity other than as authorized pursuant to KRS Section 175B, as amended.

(k) Allocation of Revenues. The Borrower shall not permit any Pledged Receipts to be deposited or allocated other than in accordance with the terms and conditions of the Development Agreement and the Indenture.

(l) Credit Facilities.

(i) The Borrower shall not enter into any Credit Facility other than a Qualified Credit Facility. The Borrower shall not fund any reserve account or fund under the Indenture, the amounts of which are available to pay amounts owing to the TIFIA Lender under any TIFIA Loan Document dedicated to the TIFIA Loan (including any applicable sub-account under the Third Tier Debt Service Account or the Third Tier Common Debt Service Reserve Account), with a Credit Facility without the TIFIA Lender's prior written consent.

(ii) If at any time a Credit Provider no longer satisfies the requirements for a Qualified Credit Provider, the Borrower shall cause such disqualified Credit Provider to be replaced by a Qualified Credit Provider within ten (10) Business Days of the date on which such Credit Provider failed to qualify as a Qualified Credit Provider, whether by means of a transfer of the disqualified Credit Provider's Credit Facility to a Qualified Credit Provider or by means of a termination of such disqualified Credit Provider's Credit Facility and replacement thereof by a Credit Facility with a Qualified Credit Provider on terms and conditions that satisfy the requirements of this Section 17(l).

(m) Change in Legal Structure. The Borrower shall not willfully consolidate with or merge into another Person unless (i) such merger or consolidation is with or into another entity of the Commonwealth of Kentucky and does not adversely affect or impair to any extent or in any manner (a) the Trust Estate or (b) the availability

of the Pledged Receipts for the payment and security of the obligations of the Borrower under this Agreement; and (ii) the Borrower gives the TIFIA Lender not less than sixty (60) days' prior notice of such consolidation or merger and furnishes to the TIFIA Lender all such information concerning such consolidation or merger as shall have been reasonably requested by the TIFIA Lender. Prior to a consolidation by the Borrower with or merger of the Borrower into another Person, the Borrower shall provide the TIFIA Lender with evidence, satisfactory in form and substance to the TIFIA Lender, that, following such consolidation or merger, the successor will assume, by operation of law or otherwise, the due and punctual performance and observance of all of the covenants, agreements and conditions of this Agreement and the other Related Documents to which the Borrower is a party.

**SECTION 18. Indemnification.** To the extent permitted by law, the Borrower shall indemnify the TIFIA Lender and any official, employee, agent or representative of the TIFIA Lender (each such Person being herein referred to as an "Indemnatee") against, and hold each Indemnatee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnatee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnatee arising out of, in connection with, or as a result of (a) the execution, delivery and performance of this Agreement or any of the other Related Documents, (b) the TIFIA Loan or the use of the proceeds thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Authority System; provided that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnatee. In case any action or proceeding is brought against an Indemnatee by reason of any claim with respect to which such Indemnatee is entitled to indemnification hereunder, the Borrower shall be entitled, at its expense, to participate in the defense thereof; provided that such Indemnatee has the right to retain its own counsel, at the Borrower's expense, and such participation by the Borrower in the defense thereof shall not release the Borrower of any liability that it may have to such Indemnatee. Any Indemnatee against whom any indemnity claim contemplated in this Section 18 is made shall be entitled, after consultation with the Borrower and upon consultation with legal counsel wherein such Indemnatee is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower for purposes of this Section 18. Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnatee. To the extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any Indemnatee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Related Documents, the TIFIA Loan and the other transactions contemplated hereby and thereby, or the use of the proceeds thereof. All amounts due to any Indemnatee under this Section shall be payable promptly upon demand therefor. The obligations of the Borrower under this Section shall survive the payment or prepayment in full or transfer of the TIFIA Bond, the enforcement of any provision of this Agreement or the other Related

Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section) or consents in respect hereof or thereof, any Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower hereunder or thereunder.

**SECTION 19. Sale of TIFIA Loan.** The TIFIA Lender shall not sell the TIFIA Loan at any time prior to the Substantial Completion Date. After such date, the TIFIA Lender may sell the TIFIA Loan to another entity or reoffer the TIFIA Loan into the capital markets only in accordance with the provisions of this Section. Such sale or reoffering shall be on such terms as the TIFIA Lender shall deem advisable. However, in making such sale or reoffering the TIFIA Lender shall not change the terms and conditions of the TIFIA Loan without the prior written consent of the Borrower, which consent shall not be unreasonably withheld. The TIFIA Lender shall provide (a) at least sixty (60) days prior to any sale or reoffering of the TIFIA Loan, written notice to the Borrower to the effect that the TIFIA Lender is considering the sale or reoffering of the TIFIA Loan and (b) at least thirty (30) days prior to any sale or reoffering of the TIFIA Loan, written notice to the Borrower confirming TIFIA Lender's intention to consummate such a sale or reoffering; provided, however, that no such notice shall be required during the continuation of any Event of Default. The provision of any notice pursuant to this Section shall not (i) obligate the TIFIA Lender to sell nor (ii) provide the Borrower with any rights or remedies in the event the TIFIA Lender, for any reason, does not sell the TIFIA Loan. The TIFIA Lender and the Borrower agree that for so long as any Senior Obligations or Hedge Facility remain outstanding, the provisions contained in Section 8(a) hereof and in the Indenture with respect to the TIFIA Lender's right to a first priority security interest in the Trust Estate upon the occurrence of a Bankruptcy Related Event with respect to the Borrower shall be of no force or effect following the complete sale of the TIFIA Loan to a commercial entity. However, should an assignment or sale be made to a federal government agency or instrumentality, the federal government shall retain the right to a first priority security interest in the Trust Estate upon the occurrence of any Bankruptcy Related Event with respect to the Borrower.

**SECTION 20. Events of Default and Remedies.**

(a) An "Event of Default" shall exist under this Agreement if:

(i) Payment Default. The Borrower shall fail to pay any of the principal amount of or interest on the TIFIA Loan (including any mandatory prepayment required pursuant to Section 10(a)) when and as the payment thereof shall be required under this Agreement or the TIFIA Bond or on the Final Maturity Date (each such failure, a "Payment Default");

(ii) Covenant Default. Either Borrower Related Party shall fail to observe or perform any covenant, agreement or obligation of the such Borrower Related Party under this Agreement, the TIFIA Bond or any other TIFIA Loan Document (other than in the case of any Payment Default or any Development Default), and such failure shall not be cured within thirty (30) days after receipt by the Borrower from the TIFIA Lender of written notice thereof; provided, however, that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day period, then no Event of Default shall be

deemed to have occurred or be continuing under this clause (ii) if and so long as within such thirty (30) day period the Borrower shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured; provided such failure is cured within one hundred eighty (180) days of the first occurrence of such failure;

(iii) Development Default. A Development Default shall occur, in which case the TIFIA Lender may (A) terminate this Agreement and/or any commitment or agreement by the TIFIA Lender to make a TIFIA Loan in respect of the Project and (B) pursue such other remedies as provided in this Section 20. If so requested in connection with a Development Default, the Borrower shall immediately repay any unexpended TIFIA Loan proceeds previously disbursed to the Borrower;

(iv) Misrepresentation Default. Any of the representations, warranties or certifications of either Borrower Related Party made in or delivered pursuant to the TIFIA Loan Documents (or in any certificates delivered by such Borrower Related Party in connection with the TIFIA Loan Documents) shall prove to have been false or misleading in any material respect when made;

(v) Acceleration of Senior Obligations or Other Material Indebtedness. Any acceleration shall occur of the maturity of the Senior Obligations or of any other indebtedness of the Borrower in an aggregate principal amount equal to or greater than \$1,000,000 that is senior to, or in parity with, the TIFIA Loan in right of payment or in right of security ("Other Material Indebtedness"), or any such Senior Obligations or Other Material Indebtedness shall not be paid in full upon the final maturity thereof;

(vi) Cross Default. (A) Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to any Indenture Document shall prove to be false or misleading in any material respect (each a "Misrepresentation Default"), or any default shall occur in respect of the performance of any covenant, agreement or obligation of the Borrower under any Indenture Document, and such default shall be continuing after the giving of any applicable notice and the expiration of any applicable grace period specified in such Indenture Document with respect to such default (each a "Covenant Default"), and, in the case of any such Misrepresentation Default or Covenant Default, the Borrower shall have failed to cure such Misrepresentation Default or Covenant Default or to obtain an effective written waiver thereof in accordance with the terms of the applicable Indenture Document;

(B) The Borrower or the Transportation Cabinet shall default in the timely performance of any covenant, agreement or obligation under any Related Document to which either entity is a party or by which it is bound or any Related Document shall be terminated prior to its scheduled expiration (unless in any case such default or termination could not reasonably be expected to have a Material Adverse Effect), and

the Borrower or the Transportation Cabinet shall have failed to cure such default or to obtain an effective written waiver thereof, or to obtain an effective revocation of such termination (as the case may be) within the cure periods, if any, provided under any such Related Document; provided, however, that no Event of Default shall be deemed to have occurred or be continuing under this clause if, in the case of any termination of a Tolling Related Agreement, such Tolling Related Agreement is replaced with a replacement agreement (1) entered into with another counterparty that (I) is of similar or greater creditworthiness and experience as the counterparty being replaced (or otherwise reasonably acceptable to the TIFIA Lender) and (II) is not, at the time of such replacement, suspended or debarred or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or state department or agency, (2) on substantially the same terms and conditions as the Tolling Related Agreement being replaced (or otherwise reasonably acceptable to the TIFIA Lender) and (3) effective as of the date of termination of the Tolling Related Agreement being replaced or, if earlier, the date on which the predecessor entity ceases performance under such Tolling Related Agreement;

(vii) Judgments. One or more judgments for the payment of money in an aggregate amount in excess of \$1,000,000 (inflated annually by CPI) and not otherwise covered by insurance shall be rendered against a Borrower Related Party in respect of the Project and the same shall remain undischarged for a period of thirty (30) consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon the Project or any other assets of the Borrower to enforce any such judgment;

(viii) Failure to Maintain Existence.

(A) The Borrower shall be in breach of its obligations under Section 16(l).

(B) The Borrower shall be abolished unless, within a time period acceptable to the TIFIA Lender in its sole discretion, the Kentucky General Assembly designates an appropriate entity of the Commonwealth of Kentucky to continue to carry out all covenants contained in and the performance of all obligations arising under the Related Documents to which it is a party, and the designated entity provides for the payment of obligations arising under this Agreement from the Pledged Receipts in accordance with the terms of this Agreement.

(ix) Occurrence of a Bankruptcy Related Event. (A) A Bankruptcy Related Event shall occur with respect to the Borrower or (B) a Bankruptcy Related Event shall occur with respect to any Borrower Related Party (other than the Borrower) or any Principal Project Party;

(x) Project Abandonment. The Borrower or the Transportation Cabinet shall abandon the construction, maintenance or operation of the Project;

(xi) Expiration or Termination of Development Agreement or Lease Agreement. The Development Agreement or the Lease Agreement shall expire or be terminated (whether by reason of a default thereunder, non-renewal by the Transportation Cabinet, or by mutual agreement of the parties thereto or otherwise), or for any reason shall cease to be in full force and effect at any time;

(xii) Cessation of Operations. Operation of either bridge within the Project shall cease for a continuous period of not less than one hundred eighty (180) days unless such cessation of operations shall occur by reason of an Uncontrollable Force and the Borrower shall have in force an insurance policy or policies under which the Borrower is entitled to recover substantially all Annual Debt Service in respect of all Bonds (including TIFIA Debt Service) and costs and expenses of the Borrower during such cessation of operations; or

(xiii) Adverse Amendments or Other Events. Any Tolling Related Agreement (other than the Toll Policy Agreement, to the extent the Borrower and the Transportation Cabinet are direct parties to such agreement) after initial execution and delivery thereof or any Organizational Document of the Borrower, the Joint Board or Tolling Body (or other committee established thereunder or pursuant to the Development Agreement or Interlocal Agreement) shall be amended, modified, supplemented or terminated, or (as applicable) compliance by a counterparty thereto shall be waived or not enforced, in a manner that could reasonably be expected to result in a Material Adverse Effect, in each case without the prior written consent of the TIFIA Lender and the Borrower fails to cure and eliminate such adverse consequence within thirty (30) days after receipt by the Borrower from the TIFIA Lender of written notice thereof; provided, however, that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day period, then no Event of Default shall be deemed to have occurred or be continuing under this clause (xiii) if and so long as within such thirty (30) day period the Borrower shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured; provided such failure is cured within one hundred eighty (180) days of the first occurrence of such failure.

(b) Upon the occurrence of an Event of Default described in clause (iii) of Section 20(a), all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall immediately be deemed terminated.

(c) (i) Upon the occurrence of any Event of Default described in clause (ix)(A) of Section 20(a), all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall automatically be deemed terminated.

(ii) Upon the occurrence of any other Event of Default, the TIFIA Lender, by written notice to the Borrower, may suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan.

(d) Whenever any Event of Default hereunder shall have occurred and be continuing, the TIFIA Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid hereunder or under the TIFIA Bond or the other TIFIA Loan Documents, and may prosecute any such judgment or final decree against the Borrower including confession of judgment by the Borrower against the Borrower and collect in the manner provided by law out of the property of the Borrower the moneys adjudged or decreed to be payable, and the TIFIA Lender shall have all of the rights and remedies of a secured creditor under the Uniform Commercial Code and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by Borrower under this Agreement, the TIFIA Bond or the other TIFIA Loan Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the TIFIA Bond or the other TIFIA Loan Documents.

(e) Whenever any Event of Default hereunder shall have occurred and be continuing, the TIFIA Lender may suspend or debar the Borrower from further participation in any Government program administered by the TIFIA Lender and to notify other departments and agencies of such default.

(f) No action taken pursuant to this Section shall relieve Borrower from its obligations pursuant to this Agreement, the TIFIA Bond or the other TIFIA Loan Documents, all of which shall survive any such action.

**SECTION 21. Accounting and Audit Procedures; Inspections; Reports and Records.**

(a) The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all Project-related transactions (including collection of Pledged Receipts, and any other revenues attributable to the Project, and the TIFIA Loan requisition received and disbursement made with regard to the Project), so that audits may be performed to ensure compliance with and enforcement of this Agreement. The Borrower shall use accounting, audit and fiscal procedures conforming to GASB, including, with respect to the TIFIA Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts outstanding under the Indenture and this Agreement.

(b) So long as the TIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the TIFIA Loan shall have been paid in full, the TIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any of the locations or properties of any Borrower Related Party, to examine its books of account and records, to make copies and extracts therefrom at the Borrower's expense, and to discuss the affairs, finances and accounts of any Borrower Related Party with, and

to be advised as to the same by, the officers and employees of any Borrower Related Party and its respective independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the TIFIA Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that nothing contained in this Section 21(b) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the TIFIA Lender may desire. The Borrower agrees to pay all out-of-pocket expenses incurred by the TIFIA Lender in connection with the TIFIA Lender's exercise of its rights under this Section 21(b) at any time when an Event of Default shall have occurred and be continuing.

(c) The Borrower shall maintain and retain all files relating to the Project and the TIFIA Loan until five (5) years after the later of the date on which (i) all rights and duties hereunder and under the TIFIA Bond (including payments) have been fulfilled and any required audits have been performed and (ii) any litigation relating to the Project, the TIFIA Loan or this Agreement is finally resolved or, if the TIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the TIFIA Lender and the Borrower. The Borrower shall provide to the TIFIA Lender in a timely manner all records and documentation relating to the Project that the TIFIA Lender may reasonably request from time to time.

(d) The Borrower shall provide to the TIFIA Lender, promptly after the sending or receipt thereof, copies of (i) all final reports or other final written materials, other than those that are ministerial in nature, sent to, or received from, any Nationally Recognized Rating Agency that has provided, or is being requested to provide, a rating on any indebtedness of the Borrower related to the Project or supported by Authority System Revenue, (ii) all notices and other written communications, other than those that are non-substantive or ministerial in nature, received by it from the Trustee, (iii) all reports, notices and other written materials, other than those that are non-substantive or ministerial in nature, required to be sent to the Trustee under the Indenture, including all such notices, other than those that are non-substantive or ministerial in nature, relating to any of the Principal Project Contracts, unless, in each case, the TIFIA Lender notifies the Borrower that any such reports, notices and/or other written materials no longer need to be provided.

(e) The TIFIA Lender shall have the right to conduct from time to time independent financial and compliance audits of the Borrower in accordance with the Single Audit Act of 1984, as amended, and Office of Management and Budget Circular A 133, "Audits of State and Local Governments" (as applicable), or as otherwise requested by the TIFIA Lender. Upon reasonable notice, the Borrower shall cooperate fully in conducting audits and shall provide full access to any books, documents, papers or other records which are pertinent to the Project or the TIFIA Loan, to the Secretary of the United States Department of Transportation, or the designee thereof, for necessary project or programmatic audits pursuant to 23 U.S.C. § 603, 49 CFR § 80.19, 31 U.S.C. § 6503(h) and 31 U.S.C. § 7503(b).

**SECTION 22. Financial Plan, Statements, and Reports.**

(a) The Borrower shall provide to the TIFIA Lender and the FHWA Division Office, within sixty (60) days after the Effective Date and annually thereafter not later than ninety (90) days after the beginning of each Borrower Fiscal Year, a Financial Plan. The Financial Plan submitted within sixty (60) days after the Effective Date should be consistent in all respects with the projections, assumptions and other information contained or reflected in the Base Case Financial Model. The initial and each subsequent Financial Plan delivered hereunder shall be subject to approval by the TIFIA Lender, the FHWA Division Office and, for the period through the Substantial Completion Date, FHWA's Office of Innovative Program Delivery. The FHWA Division Office's approval of such Financial Plan, which consolidates all prior financial plans, is required prior to physical commencement of construction of the Project.

(i) The Financial Plan shall be prepared in accordance with recognized financial reporting standards, such as those in the "Guide for Prospective Financial Information" of the American Institute of Certified Public Accountants, shall meet FHWA's Major Project Financial Plan requirements, as amended from time to time, and shall be in form and substance satisfactory to the TIFIA Lender.

(ii) The Financial Plan shall include: (A) a certificate signed by the Borrower's Authorized Representative to the effect that the Financial Plan, including the assumptions and supporting documentation, is accurate and reasonable to the best of the Borrower's knowledge and belief; (B) a certificate signed by the Borrower's Authorized Representative demonstrating that annual projected Authority System Revenue shall be sufficient to meet the Loan Amortization Schedule and to meet the Rate Coverage Test established pursuant to Section 16(l), and (C) an electronic copy of the updated Base Case Financial Model for the period from inception thereof through the Final Maturity Date, in substantially the form heretofore provided to the TIFIA Lender, based upon assumptions and projections with respect to the Authority System Revenue, expenses and other financial aspects of the Project which shall reflect the prior experience and current status of the Project, and the expectations of management with respect to the Project, as of the most recent practicable date prior to the delivery of such model.

(iii) For the period through Substantial Completion, the Financial Plan shall: (A) provide the current estimate of the total cost of the Project and the remaining cost to complete the Project, identify any significant cost changes since the previous Financial Plan, discuss reasons for and implications of the cost changes, and include a summary table showing the history of Project Costs by major activity or category since the Base Case Financial Model delivered as of the Effective Date and since the preceding Financial Plan; (B) provide the current schedule and implementation plan for completing the Project, including the projected Substantial Completion Date; (C) identify major milestones for each phase of the Project and compare current milestone dates with

milestone dates in the Base Case Financial Model delivered as of the Effective Date and since the preceding Financial Plan, and discuss reasons for changes in Project milestones; (D) provide current estimates of sources and uses of funds for the Project, identify any significant funding changes since the preceding Financial Plan, discuss reasons for and implications of the funding changes, and include a summary table showing the history of Project funding since the Base Case Financial Model as of the Effective Date and since the preceding Financial Plan; (E) provide an updated cash flow schedule showing annual cash needs versus available revenue and funding to meet those needs and identify any potential revenue and funding shortfalls, and addressing contingency measures that will or may be taken to address any shortfalls; (F) based on the updated cash flow schedule, provide projected debt service coverage ratios for any Senior Obligations and the TIFIA Loan through the Final Maturity Date; (G) provide cost containment strategies and risk mitigation plans that have been or may be implemented to address factors that are affecting or could affect the scheduled completion or financial viability of the Project; (H) provide the total value of approved changes in Project design or scope, and provide a listing of each individual change valued at \$5,000,000 or more, setting forth the rationale or need for the proposed change and describing the impact of such change on the Project; (I) contain, in form and substance satisfactory to the TIFIA Lender, a written narrative report on the progress of design, permitting, acquisition and construction of the Project since the Base Case Financial Model as of the Effective Date and since the preceding Financial Plan, describing in reasonable detail all significant activities concerning Project status including any material matters that may affect the future performance of the Borrower's obligations under this Agreement and the causes thereof; and (J) comply in all respects with FHWA's Major Project Financial Plan requirements.

(iv) For the period following Substantial Completion until repayment of the TIFIA Loan in full, the Financial Plan shall: (A) provide an updated cash flow schedule showing annual cash inflows (Pledged Receipts, interest and other income) and outflows (Total System Expenses, Capital Expenditures, Annual Debt Service, TIFIA Debt Service, replenishment of reserves and other uses) with a narrative identifying any potential revenue or funding shortfall and discussing contingency measures that will or may be taken to address any shortfalls; (B) provide current and estimated amounts of Pledged Receipts received and the amounts deposited into each of the accounts and subaccounts established under the Indenture and the amount disbursed from such funds and accounts and the balance in each of the funds and accounts; (C) provide an updated schedule of actual and projected Pledged Receipts, showing actual and projected debt service coverage ratios for all Bonds (including the TIFIA Bond); (D) provide a schedule of then current toll rates and planned or proposed increases; and (E) include a written narrative report explaining any variances in costs or revenues since the Base Case Financial Model and the preceding Financial Plan and describing in reasonable detail any material matters that may affect the future performance of the Borrower's obligations under this Agreement

and the causes thereof to include traffic and revenue reports, operational contracts, and third-party transactions.

(b) Not later than ninety (90) days following Substantial Completion, the Borrower shall provide the TIFIA Lender with a final written narrative report, summarizing all significant activities and events, since the Base Case Financial Model, affecting the operation, maintenance, financing, or management of the Project in a form reasonably satisfactory to the TIFIA Lender. Such report shall include an updated cash flow schedule and currently projected Total Debt Service Coverage Ratios for all Borrower Fiscal Years during the term of the TIFIA Loan. For the avoidance of doubt, the Borrower must comply with the continued reporting requirements of the FHWA Major Projects Financial Plan Guidance, as amended from time to time.

(c) For the period through Substantial Completion, the Borrower shall provide the TIFIA Lender with written notification at least thirty (30) days prior to instituting any increase or decrease of the overall Project Costs in an amount equal to or greater than \$5,000,000, which notification shall set forth the nature of the proposed increase or decrease and an estimate of the impact of such increase or decrease on the capital costs and operating costs of the Project, and the Financial Plan. The Borrower's notice shall demonstrate that the proposed increase or decrease is consistent with the provisions of this Agreement, is necessary or beneficial to the Project and does not materially impair the TIFIA Lender's security or the Borrower's ability to comply with its obligations under the Related Documents, including any financial ratios or covenants included therein.

(d) The Borrower shall furnish to the TIFIA Lender:

(i) as soon as available, but no later than sixty (60) days after the end of the first, second and third quarterly period of each Borrower Fiscal Year, an unaudited income statement and balance sheet of the Borrower as of the end of such period and the related unaudited statements of operations and changes in member capital and of cash flow of the Borrower for such period and for the portion of the fiscal year through the end of such period, setting forth in each case in comparative form the figures for the previous period, certified by the chief executive officer or chief financial officer of the Borrower or any Borrower's Authorized Representative fairly stating in all material respects the financial condition of the Borrower as at the end of such period and the results of its operations and its cash flows for such period (subject to normal year-end audit adjustments); and

(ii) as soon as available, but no later than one hundred fifty (150) days after the end of each Borrower Fiscal Year, a copy of the audited income statement and balance sheet of the Borrower and of the Transportation Cabinet as of the end of such Borrower Fiscal Year and the related audited statements of operations, changes in member capital and of cash flow of the Borrower for such Borrower Fiscal Year, setting forth in each case in comparative form the figures for the previous Borrower Fiscal Year, certified without a "going

concern” or like qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the Borrower and which is reasonably acceptable to the TIFIA Lender. All such financial statements with respect to the Borrower and the Transportation Cabinet shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GASB (or in the case of non-U.S. Persons, substantially equivalent principles) applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(e) The Borrower shall furnish to the TIFIA Lender, together with each delivery of annual audited financial statements of the Borrower pursuant to Section 22(d), a certificate signed by the chief executive officer or chief financial officer of the Borrower or any Borrower’s Authorized Representative, stating whether or not, to the Borrower’s knowledge, during the annual period (as the case may be) covered by such financial statements, there occurred any Event of Default or event which, with notice or lapse of time or both, would become an Event of Default, and, if any such Event of Default or other event shall have occurred during such period, the nature of such Event of Default or other event and the actions that the Borrower or the Transportation Cabinet has taken or intends to take in respect thereof.

**SECTION 23. Project Oversight and Monitoring.**

(a) Project Development, Design and Construction. The TIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) development, including environmental compliance, design, right-of-way acquisition, and construction of the Project. The Transportation Cabinet shall be responsible for administering construction oversight of the Project in accordance with the Development Agreement. The Transportation Cabinet’s oversight of Project development, environmental compliance, design, right-of-way acquisition, and construction monitoring shall be conducted pursuant to the Project Oversight Agreement, which may be amended from time to time upon mutual agreement of the Transportation Cabinet and FHWA, or when so required by federal statute or otherwise required by the United States Congress. The Borrower agrees to cooperate in good faith with the TIFIA Lender in the conduct of such monitoring by promptly providing the TIFIA Lender with such reports, documentation or other information as shall be requested by the TIFIA Lender, or its agents, including any independent or consulting engineer reports, documentation or information.

(b) Reporting. The Borrower shall furnish to the TIFIA Lender:

(i) Incurrence of Indebtedness. On or before the third (3<sup>rd</sup>) Business Day following the end of any calendar month during which the Borrower incurs indebtedness for borrowed money in connection with the Authority System (including any issuance of Bonds or Bond Anticipation Obligations), the Borrower shall provide a report executed by a Borrower’s Authorized Representative setting forth (A) the amount of each such issuance or

borrowing and (B) a detailed breakdown, in form and substance satisfactory to the TIFIA Lender, of the uses of proceeds from such issuances or borrowings (including invoices in the case of Bond Anticipation Obligations).

(ii) Monthly Construction Progress Report. On or before the last Business Day of any calendar month during the Construction Period, a report executed by a Borrower's Authorized Representative (A) of the amount of Project Costs expended since the Effective Date as well as during the preceding calendar month and the amount of Project Costs estimated to be required to complete the Project, (B) providing an assessment of the overall construction progress of the Project since the date of the last report and since the Effective Date, together with an assessment of how such progress compares to the Construction Schedule, (C) specifying the projected Substantial Completion Date, (D) providing a detailed description of all material problems (including actual and anticipated cost and/or schedule overruns, if any) encountered or anticipated in connection with the construction of the Project since the date of the last report, together with an assessment of how such problems may impact the Construction Schedule and the meeting of critical dates thereunder and a detailed description of the proposed solutions to any such problems, (E) specifying the delivery status of major equipment and the effect, if any, that the anticipated delivery dates of such equipment has on the overall Construction Schedule, (F) specifying any proposed or pending change orders, (G) specifying any material changes or deviations from the Borrower's or the Transportation Cabinet's land procurement plans or schedule, and (H) a discussion or analysis of such other matters related to the Project as the TIFIA Lender may reasonably request. The Borrower shall respond, and use commercially reasonable efforts to cause the Construction Contractor to respond, to the TIFIA Lender's inquiries regarding such report, the construction of the Project and the Construction Contractor's performance of its obligations under the Construction Agreement.

(iii) Construction Contractor Reports. During the Construction Period, promptly after receipt thereof, a copy of each report delivered by the Construction Contractor to the Transportation Cabinet pursuant to the Construction Agreement.

(iv) Traffic and Operating Report. For the period commencing after the Substantial Completion Date, deliver to the TIFIA Lender, not later than ninety (90) days after the end of each financial quarter, a traffic and operating report showing (A) the operating data for the Project for the previous financial quarter, including total Pledged Receipts (including any Lease Payments) received and Total System Expenses and Capital Expenditures incurred, (B) the variances for such period between the Pledged Receipts actually received and the budgeted Pledged Receipts as shown in the Financial Plan, together with a brief narrative explanation of the reasons for any such variance of ten percent (10%) or more, and (C) the variances for such period between the actual General O&M Expenses, M&R Expenses or Toll System Collection Expenses incurred and the budgeted General O&M Expenses, M&R Expenses and Toll System Collection

Expenses as shown in the Financial Plan, together with a brief narrative explanation of the reasons for any such variance of ten percent (10%) or more to any such category of expenses.

(v) Debt Service Coverage Ratio Certification. For the period commencing after the Substantial Completion Date, deliver to the TIFIA Lender, not later than sixty (60) days after the end of each financial quarter, a certificate, executed by a Borrower's Authorized Representative, which certificate sets forth (A) the Authority System Revenues for the twelve (12) month period ending on the last day of such financial quarter, (B) the ratio of Authority System Revenues for the twelve (12) month period ending on the last day of such financial quarter to the Annual Debt Service in respect of any Bonds (other than the TIFIA Bond) for such twelve (12) month period and (C) the ratio of Authority System Revenues for the twelve (12) month period ending on the last day of such financial quarter to the Annual Debt Service in respect of any Bonds (including the TIFIA Bond) for such twelve (12) month period.

(vi) Permits. Promptly after the receipt or filing thereof, as the case may be (but in no event later than thirty (30) days after such receipt or filing), a copy of (A) each Governmental Approval or other consent or approval obtained by the Borrower or the Transportation Cabinet, or obtained by the Construction Contractor and delivered to the Transportation Cabinet pursuant to the Construction Agreement after the Effective Date, and (B) each filing made by the Borrower with any Governmental Authority (including any party to the Development Agreement) with respect to a Governmental Approval, except such as are routine or ministerial in nature.

(vii) Reports from Indiana Parties. Promptly after the receipt thereof (but in no event later than ten (10) days after such receipt), a copy of each notice, claim or report received by a Borrower Related Party from INDOT, IFA or the East End Crossing Developer or any Principal Project Party, except in each case for notices that are ministerial in nature and could not reasonably be expected to result in a Material Adverse Effect.

(viii) Annual Section 129 Agreement Audit. Simultaneously with delivery thereof to the FHWA, the Borrower shall deliver to the TIFIA Lender a complete copy, certified by the Borrower's Authorized Representative, of the annual audit prepared pursuant to Section 3 of the Section 129 Agreement.

(c) Project Operations. For the period following Substantial Completion, the TIFIA Lender shall have the right, in its sole discretion, to monitor (or direct its agents to monitor) the Project's operations and to require reporting on the operation and management of the Project and to provide copies of any contracts relating to the operation, maintenance and safety services for the Project as may be required from time to time. The Borrower agrees to cooperate in good faith with the TIFIA Lender in the conduct of such monitoring by promptly providing the TIFIA Lender with such reports, documentation, or other information as shall be requested by the TIFIA Lender.

In the event that the TIFIA Lender retains a financial oversight advisor under contract with the TIFIA Lender, which decision shall be within the sole discretion of the TIFIA Lender, to carry out the provisions of this Section, the full cost of such monitoring shall be borne by the Borrower. Any costs incurred by the TIFIA Lender for such monitoring shall be promptly reimbursed by the Borrower upon demand therefor in the form of an invoice reasonably acceptable to the Borrower.

**SECTION 24. No Personal Recourse.** No official, employee or agent of the TIFIA Lender or the Borrower or any Person executing this Agreement or any of the other TIFIA Loan Documents shall be personally liable on this Agreement or such other TIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

**SECTION 25. No Third Party Rights.** The parties hereby agree that this Agreement creates no third party rights against the Borrower, the United States or the TIFIA Lender, solely by virtue of the TIFIA Loan, and the Borrower agrees to indemnify and hold the above Federal parties harmless, to the extent permitted by law and in accordance with Section 18, from any lawsuit or claim arising in law or equity solely by reason of the TIFIA Loan, and that no third party creditor or creditors of the Borrower shall have any right against the TIFIA Lender with respect to the TIFIA Loan made pursuant to this Agreement.

**SECTION 26. Borrower's Authorized Representative.** The Borrower shall at all times have appointed a Borrower's Authorized Representative by designating such Person or Persons from time to time to act on the Borrower's behalf pursuant to a written certificate furnished to the TIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower.

**SECTION 27. TIFIA Lender's Authorized Representative.**

(a) The TIFIA Lender shall at all times have appointed the TIFIA Lender's Authorized Representative by designating such Person or Persons from time to time to act on the TIFIA Lender's behalf pursuant to a written certificate furnished to the Borrower and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the TIFIA Lender.

(b) Pursuant to a Delegation of Authority dated July 24, 2003, the Administrator delegated the authority to enter into contracts and sign all contractual and funding documents (with the exception of the term sheets and credit agreements) necessary to implement the Act, including entering into technical amendments to, and restatements of, term sheets and credit agreements that do not materially impair the credit quality of the revenues pledged to repay the TIFIA Lender. This authority was delegated to the Associate Administrator for Administration who in turn delegated such authority to the Director of the Office of Innovative Program Delivery on June 15, 2009. Pursuant to these delegations the above named officers, any of whom alone may act, serve as the TIFIA Lender's Authorized Representative under this Agreement, in addition to the Administrator for the purposes set forth herein.

**SECTION 28. Servicer.** The TIFIA Lender may from time to time designate an entity or entities to perform, or assist the TIFIA Lender in performing, the duties of the Servicer or specified duties of the TIFIA Lender under this Agreement and the TIFIA Bond. The TIFIA Lender shall give the Borrower written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the TIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which the TIFIA Lender shall have delegated to such Servicer. The TIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the TIFIA Bond.

**SECTION 29. Fees and Expenses.**

(a) Commencing in Federal Fiscal Year (FFY) 2014 and continuing thereafter each year throughout the term of this Agreement, the Borrower shall pay to the TIFIA Lender a loan servicing fee on or before the fifteenth (15<sup>th</sup>) of November. The TIFIA Lender shall establish the amount of this annual fee, and the Servicer shall notify the Borrower of the amount, at least thirty (30) days before payment is due.

(b) In establishing the amount of the fee, the TIFIA Lender will adjust the previous year's base amount in proportion to the percentage change in CPI. For the FFY 2015 calculation, the TIFIA Lender will use the FFY 2014 base amount of \$12,483 which applies to other TIFIA borrowers, as the previous year's base amount. The TIFIA Lender will calculate the percentage change in the CPI, before seasonal adjustment, from August of the previous year to August of the current year and will then adjust the previous year's base amount in proportion to the CPI percentage change. To calculate the amount of the fee, the TIFIA Lender shall round the current year's base amount using increments of \$500. Results with the ending integers between 250-499 or between 750-999 shall be rounded upward, and results with the ending integers between 001-249 or between 501-749 shall be rounded downward. The CPI adjustments in the following years shall begin with the base amount, not the rounded fee.

(c) The Borrower shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

(d) The Borrower agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the TIFIA Lender on demand from time-to-time on and after the Effective Date for any and all fees, costs, charges and expenses incurred by it (including the reasonable fees, costs and expenses of counsel and other advisors) in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the other TIFIA Loan Documents and the transactions hereby and thereby contemplated, including reasonable attorneys', engineers', and planning fees and professional costs, including all such fees, costs and expenses incurred as a result of or in connection with:

(i) the enforcement of or attempt to enforce any provision of this Agreement or any of the other TIFIA Loan Documents;

(ii) any amendment, modification, or requested amendment or modification of, waiver, consent or requested waiver or consent under or with respect to, or the protection or preservation of any right or claim under, this Agreement, any other Related Document or the Trust Estate, or advice in connection with the administration, preservation in full force and effect and enforcement of this Agreement or any other Related Document or the rights of the TIFIA Lender thereunder; and

(iii) any work-out, restructuring or similar arrangement of the obligations of the Borrower under this Agreement or the other TIFIA Loan Documents during the pendency of one or more Events of Default.

The obligations of the Borrower under this Section 29 shall survive the payment or prepayment in full or transfer of the TIFIA Bond, the enforcement of any provision of this Agreement or the other TIFIA Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring or similar arrangement.

**SECTION 30. Amendments and Waivers.** No amendment, modification, termination or waiver of any provision of this Agreement or the TIFIA Bond shall in any event be effective without the written consent of each of the parties hereto.

**SECTION 31. Governing Law.** This Agreement shall be governed by the federal laws of the United States if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

**SECTION 32. Severability.** In case any provision in or obligation under this Agreement 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.

**SECTION 33. Successors and Assigns.** This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights or obligations hereunder nor any interest therein may be assigned or delegated by the Borrower without the prior written consent of the TIFIA Lender, except, in the case of the Borrower, in connection with any consolidation by the Borrower with or merger of the Borrower into another Person or any other change to the Borrower's legal existence, in each case, that is expressly permitted by this Agreement.

**SECTION 34. Remedies Not Exclusive.** No remedy conferred herein or reserved to the TIFIA Lender 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 now or hereafter existing at law or in equity or by statute.

**SECTION 35. Delay or Omission Not Waiver.** No delay or omission of the TIFIA Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given

by this Agreement or by law to the TIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the TIFIA Lender.

SECTION 36. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

SECTION 37. Notices; Payment Instructions. Notices hereunder shall be (a) in writing, (b) effective upon receipt (except as otherwise provided herein) and (c) given by (i) nationally recognized courier service, (ii) hand delivery or (iii) solely with respect to ministerial or non-substantive notices, email, in each case to:

If to TIFIA Lender                      TIFIA Joint Program Office (HITJ)  
Federal Highway Administration  
Room E64-301  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
Attention: Director  
Email: [TIFIACredit@dot.gov](mailto:TIFIACredit@dot.gov)

with copies to:                      Federal Highway Administration  
State Division Office  
John C. Watts Federal Building  
330 West Broadway  
Frankfort, Kentucky 40601  
Attention: Division Administrator

If to Borrower:                      Kentucky Public Transportation Infrastructure  
Authority  
c/o Kentucky Transportation Cabinet  
200 Mero Street  
Frankfort, KY 40622  
Attention: Chairman  
Email: [Michael.Hancock@ky.gov](mailto:Michael.Hancock@ky.gov)

Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a Borrower's Authorized Representative with respect to notices to the Borrower or by the TIFIA Lender's Authorized Representative with respect to notices to the TIFIA Lender or the Servicer. The Borrower shall make any payments hereunder or under the TIFIA Bond in accordance with the payment instructions hereafter provided by the TIFIA Lender's Authorized Representative, as modified from time-to-time by the TIFIA Lender's Authorized Representative. Each such notice, request

or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 37 (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 37 (or in accordance with the latest unrevoked written direction from the receiving party) and all necessary confirmations have been received in accordance herewith; provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

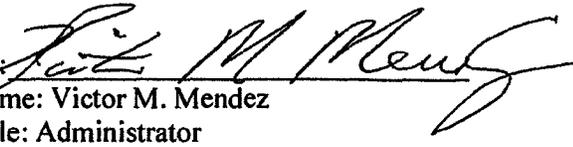
SECTION 38. Effectiveness. This Agreement shall be effective on the Effective Date.

SECTION 39. Termination. This Agreement shall terminate upon payment in full by the Borrower of the TIFIA Loan, provided, however, that the indemnification requirements of Section 18, the reporting and record keeping requirements of Sections 21(b) and (c) and the payment requirements of Section 29 shall survive the termination of this Agreement as provided in such sections.

SECTION 40. Integration. This Agreement constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

**UNITED STATES DEPARTMENT OF  
TRANSPORTATION**, acting by and through the  
Federal Highway Administrator

By:   
Name: Victor M. Mendez  
Title: Administrator

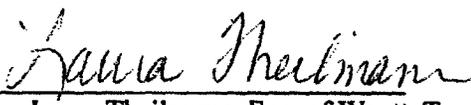
**KENTUCKY PUBLIC TRANSPORTATION  
INFRASTRUCTURE AUTHORITY**

By: 

Name: Michael W. Hancock

Title: Chairman

**APPROVED AS TO FORM AND LEGALITY:**

By: 

Name: Laura Theilmann, Esq. of Wyatt, Tarrant & Combs, LLP

Title: Special Counsel to the Authority

Date: December 12, 2013

**Schedule I**  
**Project Budget**

Commonwealth of Kentucky - Transportation Cabinet  
 Louisville Southern Indiana Ohio River Bridge Project  
 Historical and Estimated Future Construction Costs

December 4, 2013

	Certified Historical Expenses											Estimated Future Expenses						Total	
	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019		
<b>Kentucky Pre-Construction Costs</b>																			
<b>Section 1</b>																			
Oversight				18,047	706		69,608	52,664	217,433	264,552	504,040							1,127,050	
Design				3,763,441	14,040,545	3,837,432	5,872,997	927,998	6,620,532	6,057,692	1,318,315							42,438,951	
Mitigation/Other						5,657			118,525	5,623	27,824							185,299	
Right of Way							2,222,243	3,627,222	3,558,832	-450,269	12,600,489	9,100,000	3,500,000					34,158,517	
Utilities and Project Wide								2,439	628	47,916	65,519							116,502	
Contingency												10,185,884	5,811,837	3,920,047	1,593,860			21,511,628	
<b>Section Total</b>				<b>3,781,487</b>	<b>14,041,250</b>	<b>3,843,089</b>	<b>8,186,888</b>	<b>4,615,954</b>	<b>10,515,950</b>	<b>5,925,514</b>	<b>14,516,187</b>	<b>19,285,884</b>	<b>9,311,837</b>	<b>3,920,047</b>	<b>1,593,860</b>			<b>99,537,948</b>	
<b>Section 2</b>																			
Design				1,902,555	946,522	931,516	1,061,404	3,718	39,538	1,973,325	840,911							7,699,489	
Oversight																			
Mitigation/Other								43	2,154		225							2,422	
Utilities and Oversight											2,902							2,902	
Contingency												6,713,814	3,228,512	1,796,047	680,233			12,418,606	
Repair Allowance												400,000	600,000	600,000				1,000,000	
<b>Section Total</b>				<b>1,902,555</b>	<b>946,522</b>	<b>931,516</b>	<b>1,061,404</b>	<b>3,761</b>	<b>41,692</b>	<b>1,973,325</b>	<b>844,038</b>	<b>7,113,814</b>	<b>3,228,512</b>	<b>2,396,047</b>	<b>680,233</b>			<b>21,123,419</b>	
<b>Section 3</b>																			
Oversight																			
Design																			
Right of Way																			
Contingency												3,001,581	1,579,814	1,162,791	325,581			6,069,767	
<b>Section Total</b>												<b>3,001,581</b>	<b>1,579,814</b>	<b>1,162,791</b>	<b>325,581</b>			<b>6,069,767</b>	
<b>Section 4</b>																			
Oversight				39	1,373	169,374	1,964,186	2,481,249	10,645	228,005	113,802							5,238,206	
Design				1,783,929	4,370,126	7,314,407	1,851,322	1,864,878	873,942	2,049,167	6,962,095							27,880,427	
Mitigation/Other						1,039	113				57,217							58,369	
Right of Way				1,821,750	8,025	799,478	2,044,529	2,090,051	12,949,041	9,142,826	15,404,598							44,260,298	
Utilities and Project Wide					1,437	376	8,900			1,172,024	52,660							1,235,397	
<b>Section Total</b>				<b>1,783,968</b>	<b>6,194,686</b>	<b>7,492,182</b>	<b>4,616,025</b>	<b>6,399,669</b>	<b>2,974,638</b>	<b>15,224,213</b>	<b>17,390,747</b>	<b>16,596,569</b>						<b>78,672,697</b>	
<b>Total Pre-Construction</b>				<b>1,783,968</b>	<b>11,876,728</b>	<b>22,479,954</b>	<b>9,390,630</b>	<b>15,647,961</b>	<b>7,594,353</b>	<b>25,781,855</b>	<b>25,289,588</b>	<b>31,956,794</b>	<b>29,401,279</b>	<b>14,120,163</b>	<b>7,478,886</b>	<b>2,599,674</b>			<b>205,403,831</b>
<b>Design-Build Contract Walsh Construction</b>												<b>95,937,121</b>	<b>309,310,676</b>	<b>246,562,676</b>	<b>144,172,601</b>	<b>64,016,727</b>			<b>860,000,001</b>
<b>Other Project-Wide Costs</b>																			
Previously expended Project Wide	304,840	1,120,091	11,800,104	4,741,241	5,506,167	7,403,896	2,622,676	8,876,164	5,224,661	13,714,244	12,488,357							73,802,440	
Stipends for unsuccessful bidders											3,000,000							3,000,000	
State Oversight of Downtown											1,105,954	29,694,046	26,400,000	26,400,000	4,400,000			88,000,000	
QA audits of East End											167,883	4,032,117	3,600,000	3,600,000	600,000			12,000,000	
TARC Commitments (KYTC Share)											10,000,000							10,000,000	
Toll Integrator/Operator (KYTC Share)												2,500,000	5,500,000	5,500,000	4,500,000			18,000,000	
Tolling Oversight (KYTC Share)											800,000	800,000	1,000,000	1,200,000				4,000,000	
KY Heritage Council Craftsmans Training											700,000	700,000	600,000	150,000	50,000			1,500,000	
Noise Wall Streetscaping/Post Construction														2,000,000		4,000,000	4,000,000	10,000,000	
Workforce Development Program												2,000,000	500,000	250,000	250,000			3,000,000	
Road Fund Expenses												16,714,246						16,714,246	
<b>Total Project Wide Costs</b>	<b>304,840</b>	<b>1,120,091</b>	<b>11,800,104</b>	<b>4,741,241</b>	<b>5,506,167</b>	<b>7,403,896</b>	<b>2,622,676</b>	<b>8,876,164</b>	<b>5,224,661</b>	<b>13,714,244</b>	<b>26,762,194</b>	<b>56,440,409</b>	<b>37,600,000</b>	<b>36,900,000</b>	<b>13,000,000</b>	<b>4,000,000</b>	<b>4,000,000</b>	<b>240,016,686</b>	
<b>Aggregate Project Cost</b>	<b>304,840</b>	<b>1,120,091</b>	<b>13,584,072</b>	<b>16,619,969</b>	<b>27,986,121</b>	<b>16,794,526</b>	<b>18,270,637</b>	<b>16,470,517</b>	<b>31,006,516</b>	<b>39,003,830</b>	<b>154,656,109</b>	<b>395,152,364</b>	<b>298,283,036</b>	<b>188,551,486</b>	<b>79,616,401</b>	<b>4,000,000</b>	<b>4,000,000</b>	<b>1,305,420,516</b>	

Total Certified Historical Costs **336,817,228**

Total Estimated Future Costs **969,603,290**

<b>TIFIA Loan Amount</b>	
Construction Cost	1,305,420,518
<b>Financing Cost</b>	
Toll Revenue Bonds DSRF	27,567,037
Toll Revenue Bonds CAPI	40,941,189
Toll Revenue Bonds COI	217,649
TIFIA Tax-Exempt BAN CAPI	74,138,978
TIFIA Tax-Exempt BAN COI	473,058
TIFIA Taxable BAN CAPI	2,973,402
TIFIA Taxable BAN COI	29,276
Sub-Total	146,340,589
<b>Eligible Cost</b>	<b>1,451,761,107</b>
Maximum Federal Funds (80% of eligible cost)	1,161,408,885
<b>Non-TIFIA Federal Funds</b>	
Federal Aid Funds	274,457,659
Series 2010 GARVEE	98,627,853
<u>Series 2013 GARVEE</u>	<u>236,000,000</u>
Sub-Total	609,085,512
<b>Constraint 1 - Maximum Federal Funds</b>	<b>552,323,374</b>
<b>Constraint 2 - 33% Eligible Cost</b>	<b>479,081,165</b>
<b>Constraint 3 - Approved TIFIA Amount</b>	<b>452,200,000</b>
<i>TIFIA Constraint</i>	<i>452,200,000</i>
<b>Allowed TIFIA Loan draw at BANs Maturity</b>	<b>452,200,000</b>
<b>% of Eligible Costs</b>	<b>31.1%</b>

**Schedule II  
Construction Schedule**





**Schedule 14(s) Environmental Matters**

**None.**

### Schedule 14(t) Governmental Approvals

The Principal Project Contracts and the Governmental Approvals listed below create rights in the Borrower or the Transportation Cabinet sufficient to enable the Borrower or the Transportation Cabinet, as applicable, to own, construct, operate, maintain and repair the Project and to perform its respective obligations under the Principal Project Contracts to which it is a party or by which it is bound.

Section 129 Agreement – June 30, 2012



**Schedule 14(u) Insurance**

**None**

**Schedule 14(x) Intellectual Property**

**None**

**Schedule 14(cc) Transactions with Related Governmental Authorities**

**Other than the Principal Project Contracts, the Borrower is not engaged in any transaction or series of transactions with any Governmental Authority or other Person in connection with the Project except for the following:**

**Memorandum of Agreement between the Kentucky Transportation Cabinet and the Kentucky Public Transportation Infrastructure Authority**

**Common Interest and Confidentiality Agreement with the Indiana Department of Transportation and the Indiana Finance Authority – June 28, 2012**

**Public Financial Management, Inc. - Financial Advisor**

**Citigroup – Senior Managing Underwriter**

**Peck, Shaffer & Williams – Bond Counsel**

**Bank of New York – Trustee**

**Moody's - Ratings**

**Standard & Poor's - Ratings**

**Wyatt Tarrant and Combs - Special Counsel**

FORM OF TIFIA BOND

Registered  
No. R-1

Registered Not to Exceed  
\$452,200,000

KENTUCKY PUBLIC TRANSPORTATION INFRASTRUCTURE AUTHORITY  
DOWNTOWN CROSSING PROJECT REVENUE BOND

(TIFIA-2013-1010A)

TIFIA BOND

Interest Rate: 3.88%      Maturity: July 1, 2051 (subject to amendment as provided herein)      Dated: December 12, 2013

**KENTUCKY PUBLIC TRANSPORTATION INFRASTRUCTURE AUTHORITY**, an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky (the "Borrower"), for value received, hereby promises to pay to the order of the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, acting by and through the Federal Highway Administrator, or its assigns (the "TIFIA Lender"), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the "Disbursements") made by the TIFIA Lender (such lesser amount, together with any interest that is capitalized and added to principal in accordance with the provisions of the TIFIA Loan Agreement referred to below, being hereinafter referred to as the "Outstanding Principal Sum"), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the TIFIA Loan Agreement) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all as more fully described in the below-referenced TIFIA Loan Agreement. Each Disbursement made by the TIFIA Lender to the Borrower pursuant to the TIFIA Loan Agreement and each prepayment made on account of the Outstanding Principal Sum, shall be recorded by or on behalf of the TIFIA Lender and endorsed on the grid attached hereto as **Appendix One** in accordance with the terms of the TIFIA Loan Agreement, which is hereby made a part hereof. The principal hereof shall be payable in the manner and at the place provided in the TIFIA Loan Agreement in accordance with **Appendix Two**, as revised from time to time in accordance with the TIFIA Loan Agreement, until paid in full. Such **Appendix Two** shall be revised or completed by or on behalf of the TIFIA Lender in accordance with the terms of the TIFIA Loan Agreement. Payments hereon are to be made in accordance with Section 37 of the TIFIA Loan Agreement as the same become due. Principal of and interest on this TIFIA Bond shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America which at the date of payment is legal tender for the payment of public and private debts. If the Final

Maturity Date is amended in connection with an update to the Financial Plan pursuant to Section 22(a)(iii) of the TIFIA Loan Agreement, the due date of this TIFIA Bond shall be deemed to be amended to change the due date to such revised Final Maturity Date without any further action required on the part of the Borrower or the TIFIA Lender and such amendment shall in no way amend, modify or affect the other provisions of this TIFIA Bond without the prior written agreement of the TIFIA Lender.

This TIFIA Bond has been executed under and pursuant to the TIFIA Loan Agreement, dated as of the date hereof, between the TIFIA Lender and the Borrower (the "TIFIA Loan Agreement") and is issued to evidence the obligation of the Borrower under the TIFIA Loan Agreement to repay the loan made by the TIFIA Lender and any other payments of any kind required to be paid by the Borrower under the TIFIA Loan Agreement or the other TIFIA Loan Documents referred to therein. Reference is made to the TIFIA Loan Agreement for all details relating to the Borrower's obligations hereunder. All capitalized terms used in this TIFIA Bond and not defined herein shall have the meanings set forth in the TIFIA Loan Agreement.

This TIFIA Bond shall be subject to mandatory prepayment in accordance with the TIFIA Loan Agreement.

This TIFIA Bond may be prepaid at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the TIFIA Loan Agreement; provided, however, such prepayments shall be in principal amounts of \$1,000,000 or any integral multiple thereof), at any time or from time to time, without penalty or premium, by paying to the TIFIA Lender all or part of the principal amount of the TIFIA Bond in accordance with the TIFIA Loan Agreement.

Payment of the obligations of the Borrower under this TIFIA Bond is secured pursuant to the Indenture referred to in the TIFIA Loan Agreement.

The obligations of the Borrower under this Bond, the TIFIA Loan Agreement and the other TIFIA Loan Documents referred to therein are subordinated in right of security to certain senior indebtedness of the Borrower, in the manner and to the extent provided in that certain KPTIA 2013 General Indenture of Trust, dated as of December 1, 2013, between the Borrower and The Bank of New York Mellon Trust Company, N.A., as trustee.

On each payment due date, payments hereon are to be made in the manner and at the place specified by the TIFIA Lender pursuant to Section 9(d).

Any delay on the part of the TIFIA Lender in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

All acts, conditions and things required by the Constitution and laws of the Commonwealth of Kentucky to happen, exist, and be performed precedent to and in the issuance of this TIFIA Bond have happened, exist and have been performed as so required. This TIFIA Bond is issued with the intent that the federal laws of the United States of America shall govern its construction to the extent such federal laws are applicable and the internal laws of the

**Commonwealth of Kentucky shall govern its construction to the extent such federal laws are not applicable.**

IN WITNESS WHEREOF, the KENTUCKY PUBLIC TRANSPORTATION INFRASTRUCTURE AUTHORITY has caused this TIFIA Bond to be executed in its name and its seal to be affixed hereto and attested by its duly authorized officer, all as of the Effective Date set forth above.

**KENTUCKY PUBLIC TRANSPORTATION  
INFRASTRUCTURE AUTHORITY**

(SEAL)

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

**CERTIFICATE OF AUTHENTICATION**

This TIFIA Bond is the TIFIA Bond described in the within-mentioned Indenture.

---

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A.,** Louisville,  
Kentucky, Bond Registrar

By: \_\_\_\_\_  
Authorized Signer

**ASSIGNMENT**

For value received, the undersigned hereby sells, assigns and transfer unto \_\_\_\_\_ the within Bond and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration and transfer of said Bond, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature must correspond with name of Registered Owner as it appears on the front of this Bond in every particular, without alteration, enlargement or any change whatsoever.)

Social Security Number or other identifying number:  
\_\_\_\_\_

Signature Guaranteed By:  
\_\_\_\_\_

Notice: Signatures must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.





**EXHIBIT B**

**[RESERVED]**

**EXHIBIT C**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
AND OTHER RESPONSIBILITY MATTERS—  
PRIMARY COVERED TRANSACTIONS**

The undersigned on behalf of the [INSERT NAMES OF BORROWER RELATED PARTIES AND PRINCIPAL CONTRACT PARTIES] certifies, to the best of the undersigned's knowledge and belief, that [INSERT NAMES OF BORROWER RELATED PARTIES AND PRINCIPAL CONTRACT PARTIES] and its principals (as defined in 2 C.F.R. § 180.995):

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three (3) year period preceding the Effective Date been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three (3) year period preceding the Effective Date had one or more public transactions (federal, state or local) terminated for cause or default.

Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement, dated as of [Dated Date], between the TIFIA Lender and the Borrower, as the same may be amended from time to time.

Dated: \_\_\_\_\_

**[BORROWER / OTHER BORROWER RELATED  
PARTY / PRINCIPAL PROJECT PARTY]**

By: \_\_\_\_\_

## **EXHIBIT D**

### **REQUISITION PROCEDURES**

This Exhibit D sets out the procedures which the Borrower agrees to follow in submitting Requisitions for the disbursement of TIFIA Loan proceeds to pay directly for, or reimburse the Borrower for, Eligible Project Costs incurred in connection with the Project. Section 1 sets out the manner in which Requisitions are to be submitted and reviewed. Sections 2 through 4 set out the circumstances in which the TIFIA Lender may reject or correct Requisitions submitted by the Borrower or withhold a disbursement. The Borrower expressly agrees to the terms hereof, and further agrees that (i) the rights of the TIFIA Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the TIFIA Lender under the TIFIA Loan Agreement, and (ii) nothing contained herein shall be construed to limit the rights of the TIFIA Lender to take actions including administrative enforcement action and actions for breach of contract against the Borrower if it fails to carry out its obligations under the TIFIA Loan Agreement during the term thereof.

Section 1. General Requirements. All requests by the Borrower for the disbursement of TIFIA Loan proceeds shall be made by electronic mail or overnight delivery service by submission to the TIFIA Lender, in accordance with Section 37 of the Agreement, of a Requisition, in form and substance satisfactory to the TIFIA Lender and completed and executed by a duly authorized representative of the Borrower. The form of Requisition is attached as Appendix One to this Exhibit D. Supporting documentation should be submitted with the requisition.

The TIFIA Lender agrees to promptly send to the Borrower in accordance with Section 37 of the Agreement, an acknowledgement of receipt of each Requisition in the form attached as Appendix Two to this Exhibit D setting forth the date of receipt by the TIFIA Lender of such Requisition and setting forth the Business Day on which disbursement will be made absent denial by the TIFIA Lender. All disbursement requests must be received by the TIFIA Lender at or before 5:00 P.M. (EST) on the first Business Day of a calendar month in order to obtain disbursement by the fifteenth (15<sup>th</sup>) day of such calendar month or, if either such day is not a Business Day, the next succeeding Business Day. If a Requisition is approved by the TIFIA Lender, the TIFIA Lender will notify the Borrower of such approval and of the amount so approved.

Section 2. Rejection. A Requisition may be rejected by the TIFIA Lender if it is:

- (a) submitted without signature;
- (b) submitted under signature of a Person other than a Borrower's Authorized Representative;
- (c) submitted after prior disbursement of all proceeds of the TIFIA Loan; or

(d) submitted without adequate documentation of Eligible Project Costs incurred or paid. Such documentation shall include invoices for costs incurred or paid.

The TIFIA Lender will notify the Borrower of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons specified in (a) or (b) above must be resubmitted in proper form in order to be considered for approval. If a Requisition exceeds the balance of the TIFIA Loan proceeds remaining to be disbursed, the request will be treated as if submitted in the amount of the balance so remaining, and the TIFIA Lender will so notify the Borrower.

Section 3. Correction. A Requisition containing an apparent mathematical error will be corrected by the TIFIA Lender, after telephonic notification to the Borrower, and will thereafter be treated as if submitted in the corrected amount. The TIFIA Lender will confirm correction of the error, to the Borrower, in writing.

Section 4. Withholding. The TIFIA Lender shall be entitled to withhold approval of any pending or subsequent requests for the disbursement of TIFIA Loan proceeds if:

(a) the Borrower

(i) fails to pay any principal or interest on the TIFIA Loan when the same is due and payable; or

(ii) applies TIFIA Loan proceeds for purposes other than payment of, or reimbursement for, Eligible Project Costs which have been the subject of an approved disbursement request hereunder; or

(iii) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable federal or local criminal law, in connection with the transactions contemplated hereby; or

(iv) An Event of Default under the TIFIA Loan Agreement shall have occurred and be continuing;

(b) the Borrower

(i) fails to construct the Project in a manner consistent with plans, specifications, engineering reports or facilities plans previously submitted to and approved by the TIFIA Lender, or with good engineering practices, where such failure prevents or materially impairs the Project from fulfilling its intended purpose, or prevents or materially impairs the ability of the TIFIA Lender to monitor compliance by the Borrower with applicable federal or local law pertaining to the Project, or with the terms and conditions of the TIFIA Loan Agreement; or

(ii) fails to observe or comply with any applicable federal or local law, or any term or condition of the TIFIA Loan Agreement; or

(iii) fails to deliver documentation evidencing Eligible Project Costs claimed for disbursement at the times and in the manner specified by the TIFIA Loan Agreement; and such failure continues for a period of more than thirty (30) days following written notice from the TIFIA Lender to the Borrower, the TIFIA Lender shall be entitled to withhold, from any Requisition received after such thirty (30) day period has expired, and until such failure is cured or corrected, an amount determined by the TIFIA Lender (in its sole discretion) to be adequate for the cure or correction of such failure, which amount shall be stated in such notice; provided, that if the nature of the failure is such that it cannot reasonably be cured or corrected within such thirty (30) day period, the TIFIA Lender shall not withhold any disbursement by reason of such failure if the Borrower commences cure or correction within such thirty (30) day period and thereafter diligently completes such cure or correction within a further reasonable time period.

The foregoing notwithstanding, if, as of the date of such notice from the TIFIA Lender, the balance of the TIFIA Loan proceeds remaining to be disbursed is less than the amount determined by the TIFIA Lender to be adequate for the cure or correction of such failure, the TIFIA Lender may immediately withhold all further disbursement of TIFIA Loan proceeds until such failure is cured or corrected within the time period specified by the preceding paragraph.

**APPENDIX ONE TO EXHIBIT D**

**FORM OF REQUISITION**

United States Department of Transportation  
c/o Director, TIFIA Joint Program Office (HITJ)  
Federal Highway Administration  
Room E64-301  
1200 New Jersey Avenue, SE,  
Washington, DC 20590

Federal Highway Administration  
John C. Watts Federal Building  
330 West Broadway  
Frankfort, Kentucky 40601  
Attention: Division Administrator

[Loan Servicer]  
[Address]  
[Attention]

Re: DOWNTOWN CROSSING PROJECT (TIFIA # 2013-1010A)

Ladies and Gentlemen:

Pursuant to Section 4 of the TIFIA Loan Agreement, dated as of December 12, 2013 (the "TIFIA Loan Agreement"), by and between THE KENTUCKY PUBLIC TRANSPORTATION INFRASTRUCTURE AUTHORITY (the "Borrower") and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Federal Highway Administrator (the "TIFIA Lender"), we hereby request disbursement in the amount of \$ \_\_\_\_\_ for Eligible Project Costs. Capitalized terms used but not defined herein have the meaning set forth in the TIFIA Loan Agreement. In connection with this Requisition the undersigned does hereby represent and certify the following:

1. This Requisition is Requisition number \_\_\_\_\_.
2. The requested date of disbursement is [\_\_\_\_\_, \_\_\_\_] the "Disbursement Date"), which is the first Business Day following \_\_\_\_\_ 15, \_\_\_\_].
3. [The amounts to be disbursed under the TIFIA Loan Agreement aggregate \$ \_\_\_\_\_, the amounts previously disbursed under the Indenture aggregate

\$ \_\_\_\_\_, and the amounts previously contributed by KPTIA for the Project aggregate \$ \_\_\_\_\_.]

4. The amounts hereby requisitioned have been incurred by or on behalf of the Borrower for Eligible Project Costs, and such amounts, together with the amounts set forth in paragraph 3 above, will not exceed as of the requested disbursement date thirty-three percent (33%) of reasonably anticipated Eligible Project Costs.
5. The amount of this Requisition does not exceed the maximum amount of the TIFIA Loan.
6. All amounts requisitioned hereunder are for Eligible Project Costs which have not been paid for or reimbursed by any previous disbursement from TIFIA Loan proceeds.
7. All documentation evidencing the Eligible Project Costs to be paid for or reimbursed by the disbursement has been delivered by the Borrower at the times and in the manner specified by the TIFIA Loan Agreement.
8. The Borrower has all permits and Governmental Approvals necessary as of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), for the development, construction, operation and maintenance of the Project.
9. (A) Each of the insurance policies obtained by the Construction Contractor in satisfaction of the condition in Section 13(a)(xix) of the TIFIA Loan Agreement is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider; (B) the Borrower has obtained property insurance (including business interruption insurance for a period of at least twelve (12) months) in respect of the Project with such policy limits, coverages and other term and conditions as are customary for facilities similar to the Project; and (C) the Borrower has delivered certificates of such insurance obtained pursuant to clause (B) above or, if the TIFIA Lenders has so requested, copies of such insurance policies.
10. The Borrower has delivered (A) an updated Schedule 14(u) reflecting the information required pursuant to Section 14(u) of the TIFIA Loan Agreement with respect to the insurance policies obtained pursuant to clause (B) of Section 13(b)(ix) of the TIFIA Loan Agreement, (B) to the extent necessary to make the corresponding representations and warranties true, accurate and complete as of the date of any disbursement of loan proceeds hereunder, updated versions of the Schedules 14(s), 14(t), 14(x) and 14(cc) to the TIFIA Loan Agreement, in each case in form and substance satisfactory to the TIFIA Lender, and (C) to the extent necessary to make the corresponding representations and warranties true, accurate and complete as of the date of any disbursement of loan proceeds hereunder, an updated version of Appendix 1 to the Transportation Cabinet Direct Agreement, in form and substance satisfactory to the TIFIA Lender.
11. The Project has been, and is being, constructed in a manner consistent with all plans, specifications, engineering reports and facilities plans previously submitted to and approved by the TIFIA Lender and with good engineering practices.

12. The Borrower is in compliance with all of the terms and conditions of the TIFIA Loan Agreement and the Indenture and there does not currently exist an Event of Default under the TIFIA Loan Agreement or an event of default under the Indenture or any event which with the giving of notice or the passage of time or both would constitute such an Event of Default or event of default.
13. The representations and warranties of the Borrower set forth in the TIFIA Loan Agreement and in each other Related Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date). The representations and warranties of the Transportation Cabinet set forth in the Transportation Cabinet Direct Agreement and in each other Related Document to which the Transportation Cabinet is a party are true and correct, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).
14. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), (i) no Event of Default or event of default under any other Related Document and (ii) no event which with the giving of notice or the passage of time or both would constitute an Event of Default or event of default under any Related Document, in each case, has occurred and is continuing.
15. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), the total federal assistance provided to the Project shall not exceed eighty percent (80%) of Eligible Project Costs (as required pursuant to Section 603(b)(9) of the Act).
16. Since the date the Borrower submitted the Application to the TIFIA Lender, (A) there has not occurred a material adverse change in (1) the legality, validity or enforceability of any material provision of any TIFIA Loan Document or Principal Project Contract, (2) the validity, perfection or priority of the Liens provided under the Indenture on the Trust Estate in favor of the Secured Parties, (3) the TIFIA Lender's rights or remedies available under any TIFIA Loan Document, (4) the right or authority of the Tolling Body or the States' Parties (as defined in the Development Agreement) to set, charge and collect tolls on the LSIORB Project or (5) the right or authority of the States' Parties (as defined in the Development Agreement), whether directly or indirectly through contract with a third party, to construct or operate and maintain the LSIORB Project.
17. An updated copy of the report of incurred indebtedness (including Bonds or Bond Anticipation Obligations) pursuant to Section 23(b)(i) of the TIFIA Loan Agreement through the month preceding the date of the applicable Requisition has been delivered to each of the above named addresses.
18. The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection

with the Project, the Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the Government deems appropriate.

- 19. A copy of this requisition has been delivered to each of the above named addressees.
- 20. The undersigned is duly authorized to execute and deliver this requisition on behalf of the Borrower.
- 21. [Add wire instructions for Trustee.]

Date: \_\_\_\_\_

\_\_\_\_\_  
Borrower's Authorized Representative

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPENDIX TWO TO EXHIBIT D**

**FORM OF ACKNOWLEDGMENT OF RECEIPT OF**

**REQUISITION FOR DISBURSEMENT OF TIFIA LOAN PROCEEDS**

Kentucky Public Transportation Infrastructure Authority  
c/o Kentucky Transportation Cabinet  
200 Mero Street  
Frankfort, KY 40622  
Attention: Chairman

Re: Receipt of Requisition for Disbursement of TIFIA Loan Proceeds

Ladies and Gentlemen:

Pursuant to Section 4 of the TIFIA Loan Agreement, dated as of December 12, 2013, by and between the KENTUCKY PUBLIC TRANSPORTATION INFRASTRUCTURE AUTHORITY (the "Borrower") and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Federal Highway Administrator (the "TIFIA Lender"), the undersigned authorized representative of the TIFIA Lender hereby acknowledges receipt of the attached Requisition for Disbursement of TIFIA Loan proceeds (the "Requisition") from the Borrower. In connection therewith, we hereby represent and certify the following:

1. The date of receipt of the Requisition is \_\_\_\_\_.
2. Unless this Requisition is denied, disbursement shall be made on or before \_\_\_\_\_.

Date:

\_\_\_\_\_  
**TIFIA Lender's Authorized Representative**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPENDIX THREE TO EXHIBIT D**

**[APPROVAL/DISAPPROVAL] OF THE TIFIA LENDER**

(To be delivered to the Borrower)

Requisition Number \_\_\_\_\_ is [approved] [approved in part]<sup>2</sup> [not approved]<sup>3</sup> by the TIFIA Lender (as defined herein) pursuant to Section 4 of the TIFIA Loan Agreement, dated as of December 12, 2013, by and between the Kentucky Public Transportation Infrastructure Authority (the "Borrower") and the United States Department of Transportation, acting by and through the Federal Highway Administrator (the "TIFIA Lender").

Any determination, action or failure to act by the TIFIA Lender with respect to the Requisition set forth above, including the withholding of a disbursement, shall be at the TIFIA Lender's sole discretion, and in no event shall the TIFIA Lender be responsible for or liable to the Borrower for any and/or all consequence(s) which are the result thereof.

**UNITED STATES DEPARTMENT OF  
TRANSPORTATION**, acting by and through the  
Federal Highway Administrator

By: \_\_\_\_\_  
TIFIA Lender's Authorized Representative

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Dated: \_\_\_\_\_

---

<sup>2</sup> Those portions of the requisitions that are approved and those portions that are not approved are described in Schedule A attached hereto, with explanations for items not approved.

<sup>3</sup> Attached hereto as Exhibit A are reasons for denial of approval.

## **EXHIBIT E**

### **COMPLIANCE WITH LAWS**

The Borrower agrees to abide by any and all applicable Federal and state laws. The following list of Federal laws is illustrative of the type of requirements generally applicable to transportation projects. It is not intended to be exhaustive. The Borrower shall require that its contractors and subcontractors comply with applicable laws:

- (i) The Americans With Disabilities Act of 1990 and implementing regulations (42 U.S.C. §§ 12101 et seq.; 28 C.F.R. § 35; 29 C.F.R. § 1630);
- (ii) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §§ 2000d et seq.) and United States Department of Transportation regulation, 49 C.F.R. § 21;
- (iii) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. §§ 4601 et seq.), with the understanding that the requirements of said Act are not applicable with respect to utility relocations except with respect to acquisitions by the Borrower of easements or other real property rights for the relocated facilities;
- (iv) Equal employment opportunity requirements under Executive Order 11246 dated September 24, 1965 (30 F.R. 12319), any Executive Order amending such order, and implementing regulations (29 C.F.R. §§ 1625-27, 1630; 28 C.F.R. § 35; 41 C.F.R. § 60; and 49 C.F.R. § 27);
- (v) Restrictions governing the use of Federal appropriated funds for lobbying (31 U.S.C. § 1352; 49 C.F.R. § 20);
- (vi) The Clean Air Act, as amended (42 U.S.C. §§ 1857 et seq., as amended by Pub. L. 91-604);
- (vii) The National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 et seq.);
- (viii) The Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251 et seq., as amended by Pub. L. 92-500);
- (ix) The environmental mitigation requirements and commitments made by the Borrower that result in TIFIA Lender's approval of the Final Environmental Impact Statement (issued pursuant to 42 U.S.C. § 4332(2)(C)) and issuance of the Record of Decision for the Project;
- (x) The Endangered Species Act, 16 U.S.C. § 1531, et seq.

- (xi) 23 U.S.C. §138
- (xii) The health and safety requirements set forth in 23 C.F.R. § 635.108;
- (xiii) The prevailing wage requirements set forth in 40 U.S.C. § 276a, 23 U.S.C. § 113, as supplemented by 29 C.F.R. § 5, 23 C.F.R. §§ 635.117(f), 635.118 and FHWA Form 1273 §§ IV and V for those contracts that involve construction of highway improvements;
- (xiv) The Buy America requirements set forth in 23 U.S.C. 313 and implementing regulations (23 C.F.R. § 635.410);
- (xv) The requirements of 23 U.S.C. §§ 101 et seq. and 23 C.F.R.; and
- (xvi) The applicable requirements of 49 C.F.R. § 26 relating to the Disadvantaged Business Enterprise program.

**EXHIBIT F**

**NOT USED**

**EXHIBIT G**

**TIFIA DEBT SERVICE**

<b>Semi-Annual Payment Date</b>	<b>Principal</b>	<b>Coupon</b>	<b>Interest</b>	<b>Debt Service</b>
1/1/2018			8,844,784	8,844,784
7/1/2018	1,000,000	3.88%	8,700,576	9,700,576
1/1/2019			8,825,225	8,825,225
7/1/2019	1,000,000	3.88%	8,681,335	9,681,335
1/1/2020			8,805,665	8,805,665
7/1/2020	1,000,000	3.88%	8,686,154	9,686,154
1/1/2021			8,762,100	8,762,100
7/1/2021	1,000,000	3.88%	8,642,854	9,642,854
1/1/2022			8,766,546	8,766,546
7/1/2022	1,000,000	3.88%	8,623,614	9,623,614
1/1/2023			8,746,987	8,746,987
7/1/2023	1,053,871	3.88%	8,604,373	9,658,244
1/1/2024			8,726,374	8,726,374
7/1/2024	1,000,000	3.88%	8,607,939	9,607,939
1/1/2025			8,683,025	8,683,025
7/1/2025	1,157,883	3.88%	8,564,855	9,722,739
1/1/2026			8,684,167	8,684,167
7/1/2026	1,179,129	3.88%	8,542,577	9,721,706
1/1/2027			8,661,104	8,661,104
7/1/2027	1,366,244	3.88%	8,519,890	9,886,134
1/1/2028			8,634,381	8,634,381
7/1/2028	2,126,563	3.88%	8,517,194	10,643,757
1/1/2029			8,569,309	8,569,309
7/1/2029	3,653,540	3.88%	8,452,687	12,106,226
1/1/2030			8,521,325	8,521,325
7/1/2030	5,057,341	3.88%	8,382,390	13,439,731
1/1/2031			8,422,406	8,422,406
7/1/2031	6,583,126	3.88%	8,285,084	14,868,210
1/1/2032			8,293,644	8,293,644
7/1/2032	8,477,358	3.88%	8,181,082	16,658,440
1/1/2033			8,105,624	8,105,624
7/1/2033	8,853,074	3.88%	7,995,312	16,848,386
1/1/2034			7,954,670	7,954,670
7/1/2034	10,973,109	3.88%	7,824,974	18,798,083
1/1/2035			7,740,042	7,740,042
7/1/2035	13,354,599	3.88%	7,613,846	20,968,445
1/1/2036			7,478,834	7,478,834
7/1/2036	15,763,852	3.88%	7,377,330	23,141,182
1/1/2037			7,150,910	7,150,910
7/1/2037	18,281,310	3.88%	7,053,591	25,334,900
1/1/2038			6,812,929	6,812,929
7/1/2038	19,173,606	3.88%	6,701,848	25,875,454
1/1/2039			6,437,904	6,437,904

7/1/2039	19,921,376	3.88%	6,332,938	26,254,314
1/1/2040			6,048,252	6,048,252
7/1/2040	20,681,700	3.88%	5,966,165	26,647,865
1/1/2041			5,628,310	5,628,310
7/1/2041	21,520,396	3.88%	5,551,712	27,072,108
1/1/2042			5,222,803	5,222,803
7/1/2042	22,344,192	3.88%	5,137,648	27,481,840
1/1/2043			4,785,762	4,785,762
7/1/2043	23,215,615	3.88%	4,707,734	27,923,349
1/1/2044			4,331,678	4,331,678
7/1/2044	24,109,128	3.88%	4,272,888	28,382,016
1/1/2045			3,849,570	3,849,570
7/1/2045	25,071,881	3.88%	3,797,180	28,869,061
1/1/2046			3,369,724	3,369,724
7/1/2046	26,039,084	3.88%	3,314,783	29,353,867
1/1/2047			2,860,414	2,860,414
7/1/2047	27,054,608	3.88%	2,813,777	29,868,385
1/1/2048			2,331,241	2,331,241
7/1/2048	28,103,335	3.88%	2,299,601	30,402,936
1/1/2049			1,776,687	1,776,687
7/1/2049	29,210,660	3.88%	1,752,508	30,963,168
1/1/2050			1,210,210	1,210,210
7/1/2050	30,344,983	3.88%	1,190,479	31,535,462
1/1/2051			616,679	616,679
7/1/2051	31,528,438	3.88%	606,624	32,135,062

**EXHIBIT H-1**

**FORM OF WYATT, TARRANT & COMBS LLP OPINION**

December 12, 2013

United States Department of Transportation  
TIFIA Joint Program Office (HITJ)  
Federal Highway Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Attn: Director

Re: TIFIA Loan Agreement with the Kentucky Public Transportation Infrastructure Authority – Downtown Crossing Project (TIFIA-2013-1010A)

Ladies & Gentlemen:

We have acted as special counsel to the Kentucky Public Transportation Infrastructure Authority (“KPTIA”), an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky (the “Commonwealth”) in connection with the preparation and execution of that certain TIFIA Loan Agreement (the “Agreement”) dated as of December 12, 2013, between KPTIA and the United States Department of Transportation, acting by and through the Administrator of the Federal Highway Administration (the “TIFIA Lender”). Certain capitalized terms used in this opinion letter (the “Opinion”) without definition have their respective meanings specified in the Agreement.

In order to render this Opinion, we have examined and are relying upon the following:

1. General Trust Indenture, dated as of December 1, 2013 (the “Indenture”), between KPTIA and The Bank of New York Mellon Trust Company, N.A. (the “Trustee”);
2. Series Trust Indenture, Number 2013-5, dated as of December 12, 2013 (the “Series Trust Indenture”) by and between KPTIA and the Trustee;
3. TIFIA Bond dated December 12, 2013 (the “TIFIA Bond”) executed by KPTIA in favor of the TIFIA Lender;
4. the Agreement;
5. Secured Loan Term Sheet, dated as of December 12, 2013, between KPTIA and the TIFIA Lender (the “TIFIA Term Sheet”);

6. Direct Agreement, dated as of December 12, 2013 (the "Transportation Cabinet Direct Agreement") between the Kentucky Transportation Cabinet (the "Transportation Cabinet") and the TIFIA Lender;
7. Lease Agreement, dated as of December 1, 2013 (the "Lease Agreement"), between KPTIA and the Transportation Cabinet;
8. Bi-State Development Agreement, effective December 20, 2012 (the "Development Agreement"), among KPTIA, the Transportation Cabinet, the Indiana Finance Authority and the Indiana Department of Transportation, as amended by that certain Addendum #1, dated as of December 27, 2012 (unexecuted) ("Addendum #1), and by that certain Addendum #2, dated as of September 11, 2013;
9. Interlocal Cooperation Agreement for the Design, Procurement, Construction, Financing, Tolling, Operation and Maintenance for the Louisville-Southern Indiana Ohio River Bridges Project, effective as of December 17, 2012 (the "Interlocal Agreement"), among KPTIA, the Transportation Cabinet, the Indiana Finance Authority and the Indiana Department of Transportation;
10. KRS Chapter 175B (the "Act") and certified copy of the Bylaws of KPTIA;
11. Certified copy of the resolution adopted by the Board of KPTIA on November 14, 2013 approving the Agreement; and
12. Certified copy of the resolution adopted by the Board of KPTIA on November 14, 2013 approving and ratifying the Tolling Body's adoption of the Toll Rate Resolution.

As special counsel to KPTIA, we have examined such organizational records of KPTIA, certificates and other documents and instruments and have researched such questions of law and examined the public records in such jurisdictions as we have considered necessary for the purpose of delivering this Opinion. As to various matters of fact material to our Opinion, we have relied upon corporate and other records furnished to us by KPTIA, upon certificates of the official recordkeepers of KPTIA, and upon certificates of other public officials. However, except for the documents described above we have not, unless expressly otherwise indicated herein, reviewed any other documents or conducted any other examination of any public records, and the opinions rendered herein are limited accordingly. In rendering this Opinion, we have assumed the due authorization, execution and delivery of all documents by the TIFIA Lender and any other parties thereto other than KPTIA, and the conformity to authentic, original documents of all documents submitted to us as a certified, conformed or photostatic copy.

Based upon the foregoing, and subject to the assumptions, qualifications and limitations set forth herein, we are of the opinion that:

1. KPTIA is an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky duly formed by the General Assembly of Kentucky at its 2009 First Extraordinary Session by the enactment of the Act. KPTIA is validly existing and in good standing under the laws of the Commonwealth of Kentucky and has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the TIFIA Term Sheet and each Related Document to which it is a party.

2. The execution and delivery by KPTIA of the TIFIA Term Sheet and each Related Document to which it is a party, and the performance by KPTIA of its obligations under each such Related Document, has been duly authorized by all necessary action of KPTIA.

3. KPTIA has duly executed and delivered the TIFIA Term Sheet and each Related Document to which it is a party and the TIFIA Term Sheet and each such Related Document constitutes the legal, valid and binding obligation of KPTIA enforceable against KPTIA in accordance with its respective terms. No opinion is expressed hereby as to Addendum #1.

4. The execution, delivery and performance by KPTIA of the Related Documents to which it is a party do not (i) violate the Act or KPTIA's Bylaws, (ii) violate any statute, rule or regulation to which KPTIA is subject, or (iii) constitute a breach of or default under any material written agreement or other instrument to which, to our knowledge, KPTIA is a party, or (iv) to the best of our knowledge, violate any court order, consent, decree, or order to which KPTIA presently is subject.

5. Except as disclosed in the Preliminary Official Statement dated as of November 26, 2013, there are no actions, suits, proceedings or investigations pending or, to our knowledge, threatened by or before any court, arbitrator or any other governmental authority challenging the validity or enforceability of the Related Documents or contesting the powers or authority of KPTIA to execute and deliver the Related Documents to which it is a party or to perform its obligations under such Related Documents and the TIFIA Term Sheet.

6. To our knowledge, no authorization, consent or other approval of, or registration, declaration or other filing with any governmental authority of the United States or of the Commonwealth is required on the part of KPTIA for the execution, delivery or performance by KPTIA with respect to any Related Document to which KPTIA is a party.

The opinions set forth above are subject to the following qualifications:

A. Our opinion concerning the enforceability of the Related Documents to which KPTIA is a party is subject to [i] applicable bankruptcy, insolvency, reorganization, fraudulent conveyancing, preferential transfer, moratorium or similar laws of general application and court decisions affecting the rights of creditors generally; and [ii] general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity), including concepts of good faith, fair dealing, commercial reasonableness and unconscionability.

B. Certain rights, remedies and other provisions in the Related Documents to which KPTIA is a party may be limited or rendered unenforceable by applicable Kentucky laws or judicial decisions governing such provisions, but in our opinion such laws and judicial

decisions do not, make the remedies afforded by the Related Documents inadequate for the practical realization of the principal benefits intended to be provided therein.

C. Our opinion that the Related Documents to which KPTIA is a party are enforceable in accordance with their terms does not mean that each and every waiver and remedy provided therein is enforceable; however, the unenforceability of any of such waivers and remedies that are not enforceable because of reasons other than applicable bankruptcy, insolvency or similar laws affecting the rights of creditors generally, and to general principles of equity, whether asserted in an action at law or in equity, will not materially impair the benefit to the TIFIA Lender of the security intended to be afforded by the Related Documents except for any economic consequences resulting from delay caused by the inability to enforce such waivers and remedies.

D. The qualification "to our knowledge," means that during the course of our representation of KPTIA in connection with the transactions contemplated by the Agreement, no information has come to the attention of the lawyers in our Firm who have had active involvement in negotiating the Agreement or in preparing this Opinion that is contrary to the opinions expressed in this Opinion. Except, however, for certificates and representations that we have obtained from KPTIA concerning the facts underlying the opinions expressed, we have not undertaken any independent investigation to determine the existence or absence of such facts.

E. We are authorized to practice law in the Commonwealth of Kentucky and express no opinion as to the laws of any jurisdiction other than the Commonwealth of Kentucky and the United States of America.

F. We express no opinion on the investment quality of the TIFIA Bond.

G. This Opinion is rendered solely for your benefit in connection with the delivery of the Term Sheet and the Agreement and may not be relied upon in any manner by any other party without our prior written consent.

Sincerely,

WYATT, TARRANT & COMBS, LLP

**EXHIBIT H-2**

**FORM OF PECK SCHAFFER OPINION**

December 12, 2013

Kentucky Public Transportation Infrastructure Authority  
Frankfort, Kentucky

United States Department of Transportation  
Washington, D.C.

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance by the Kentucky Public Transportation Infrastructure Authority (the "Authority") of its Downtown Crossing Project Revenue Bonds, Taxable Third Tier 2013 Series A (TIFIA-2013-1010A) TIFIA Bond in an aggregate principal amount of \$452,200,000 (the "TIFIA Bond"). The TIFIA Bond is issued pursuant to the Constitution and laws of the Commonwealth of Kentucky (the "Commonwealth"), including particularly Chapter 175B of the Kentucky Revised Statutes (the "Act"), and in accordance with resolutions adopted by the Board of Directors of the Authority (the "Board") on November 14, 2013 (together, the "Bond Resolution"), which authorized a General Trust Indenture dated as of December 1, 2013 and a Series Trust Indenture, Number 2013-5 dated as of December 12, 2013 (together, the "Indenture"), each between the Authority and The Bank of New York Mellon Trust Company, N.A., Louisville, Kentucky, as trustee (the "Trustee").

The TIFIA Bond is being issued to evidence a loan to the Authority from the United States Department of Transportation, acting by and through the Federal Highway administration (the "TIFIA Lender") pursuant to the TIFIA Loan Agreement dated as of December 12, 2013 (the "TIFIA Loan Agreement"), between the TIFIA Lender and the Authority. Terms used herein which are defined in the TIFIA Loan Agreement or in the Indenture shall have the meanings set forth therein unless otherwise defined herein.

In addition, the Authority and Transportation Cabinet of the Commonwealth of Kentucky (the "Cabinet") have entered into a Lease dated as of December 1, 2013 (the "Lease") whereby the Authority, as lessor, leases the Authority System to the Cabinet, as lessee, for a term extending to and including June 30, 2014, and pursuant to which the Cabinet has the exclusive option to renew the Lease for the next biennial term and for successive biennial terms thereafter until all Bonds issued under the Indenture have been retired.

The TIFIA Bond is being issued for the purpose of providing funds with which to pay and reimburse expenditures for Costs of the Project paid or incurred by the Authority in connection with the Project.

We have examined the following: (a) such portions of the Constitution, statutes and laws of the United States, the Constitution, statutes and laws of the Commonwealth, and such applicable court decisions, regulations, rulings and opinions as we have deemed necessary or relevant for the purposes of the opinions set forth below; (b) certified copies of the Bond Resolution; (c) executed counterparts of the TIFIA Loan Agreement and the Indenture, (d) that certain Secured Loan Term Sheet, dated as of December 12, 2013, between the TIFIA Lender and the Authority (the "TIFIA Term Sheet"), (e) that certain Direct Agreement, dated as of the date hereof, between the Cabinet and the TIFIA Lender and acknowledged and agreed by the Authority (the "Direct Agreement"), (f) certificates of officers of the Authority and the purchaser of the TIFIA Bond as to various factual matters and (g) such other documents and related matters of law as we have deemed necessary in order to render this opinion. Regarding questions of fact material to our opinion, we have relied upon such certificates without undertaking to verify the representations and certifications contained in those certificates by independent investigation. We express no opinion with respect to the TIFIA Bond or other matters related to the TIFIA Bond other than those specifically rendered hereunder.

Based upon the foregoing, it is our opinion, under the law existing on the date of this opinion, that:

1. The Authority is an independent de jure municipal corporation and political subdivision of the Commonwealth constituting a governmental agency and instrumentality of the Commonwealth, and existing pursuant to authority of the Act. The Authority has all requisite power and authority under the Constitution of the Commonwealth of Kentucky, the Act and the Bond Resolution to conduct its business, to enter into and perform its obligations under the TIFIA Loan Agreement and the TIFIA Term Sheet, to acknowledge and agree to the Direct Agreement, to enter into and perform its obligations under the Indenture, to enter into and perform its obligations under the Lease and to issue and perform its obligations under the TIFIA Bond pursuant to the TIFIA Loan Agreement and the Indenture.
2. The Bond Resolution is in full force and effect and is valid and binding upon the Authority in accordance with its terms. The TIFIA Loan Agreement and the Indenture have been duly authorized, executed and delivered by the Authority, constitute valid and binding obligations of the Authority and are legally enforceable in accordance with their respective terms.
3. The TIFIA Bond has been duly authorized and issued, is the legal, valid and binding special limited obligation of the Authority, is a Bond entitled to the benefits and security of the Indenture, and is enforceable in accordance with its terms.
4. The TIFIA Bond is payable from, and is secured by a pledge of and a lien on, the Trust Estate created by the Indenture, subject to the priority of the pledge thereof set forth in the Indenture, which Trust Estate consists of the Pledged Receipts, the funds and accounts established by the Indenture (other than the Rebate Fund, the General O&M Reserve Fund, the M&R Reserve Fund, the Tolling O&M Reserve Fund and the General Reserve Fund), any and all other property of any kind and nature from time to time

hereafter, by delivery or by writing of any kind pledged, assigned or transferred as additional security, and all right, title and interest of the Authority in and to the Lease.

5. The TIFIA Bond and the TIFIA Loan Agreement are special and limited obligations of the Authority payable solely and only as provided for by the Indenture and the TIFIA Loan Agreement. The TIFIA Bond and the TIFIA Loan Agreement do not pledge the general credit or taxing power, if any, of the Commonwealth, the Authority, the Cabinet or any other agency or political subdivision of the Commonwealth.

6. The Indenture creates the valid and binding assignment and pledge of the Trust Estate to secure the payment of the principal of, interest on, and other amounts payable in respect of the TIFIA Bond, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act.

7. All actions by the Board required for the issuance of the TIFIA Bond and the use of Pledged Receipts as required under the Indenture and under the TIFIA Loan Agreement have been duly and lawfully made.

8. The Authority has complied with the requirements of Kentucky law to lawfully pledge the Trust Estate and use the Pledged Receipts as required by the terms of the Indenture and the TIFIA Loan Agreement.

9. The TIFIA Lender's entitlement to the rights of a Bondholder for all purposes applicable to the TIFIA Bond under the Indenture are valid security rights of the TIFIA Lender, enforceable under the laws of the Commonwealth, without any further action by the Authority or any other party, as provided in the Indenture

Our opinion set forth above is subject to the qualification that the enforceability (but not the validity or binding effect) of the TIFIA Bond, the TIFIA Loan Agreement and the Indenture and agreements relating thereto may be limited by bankruptcy, reorganization, moratorium, insolvency or other similar laws relating to or affecting the enforcement of creditors' rights, and to the exercise of judicial discretion in accordance with general equitable principles.

In rendering our opinion (i) as to the due authorization, execution and delivery of the Indenture, the Lease and the Loan Agreement by the Authority, we have relied on the opinion of counsel to the Authority and (ii) as to the due authorization, execution and delivery of the Lease by the Cabinet, and enforceability of the Lease with respect to the Cabinet, we have relied on the opinion of counsel to the Cabinet

This opinion is based upon facts known or certified to us and laws in effect on its date and speaks as of that date. The opinions stated in this letter are expressions of professional judgment based upon such facts and law and are not a guaranty of a result if the validity of the TIFIA Bond, the TIFIA Loan Agreement, the Indenture or the Lease is challenged. We have not undertaken any obligation to revise or supplement this opinion to reflect any facts or circumstances that may come to our attention after the date of this opinion or any changes in law that may occur after that date.

Very truly yours,

[Faint, illegible text, likely a signature or a very light scan of a letter body]

**EXHIBIT H-3**

**[FORM OF OPINION OF COUNSEL TO TRANSPORTATION AUTHORITY]**

December 12, 2013

United States Department of Transportation  
TIFIA Joint Program Office (HITJ)  
Federal Highway Administration  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590

Attn: Director

Re: TIFIA Loan Agreement with the Kentucky Public Transportation Infrastructure  
Authority – Downtown Crossing Project (TIFIA-2013-1010A)

Ladies & Gentlemen:

I am general counsel to the Kentucky Transportation Cabinet (“KYTC”), a department and agency of the Commonwealth of Kentucky (“Commonwealth”) responsible for and with authority to direct and control the establishment, construction, and maintenance of Kentucky’s primary road system. The following opinion is rendered in connection with the preparation and execution of that certain Direct Agreement (the “Direct Agreement”) dated as of December 12, 2013, between KYTC and the United States Department of Transportation, acting by and through the Administrator of the Federal Highway Administration (the “TIFIA Lender”) and acknowledged and agreed to by the Kentucky Public Transportation Infrastructure Authority (“KPTIA”). The Direct Agreement is prepared in conjunction with that certain TIFIA Loan Agreement (the “Loan Agreement”) dated as of December 12, 2013, between KPTIA and the TIFIA Lender. Certain capitalized terms used in this opinion letter (the “Opinion”) without definition are defined in the Loan Agreement.

In order to render this Opinion, I have examined and am relying upon the following:

1. Loan Agreement;
2. Lease Agreement, dated as of December 1, 2013 (the “Lease Agreement”) between KYTC and KPTIA;
3. The Direct Agreement;
4. Bi-State Development Agreement, effective December 20, 2012 (the “Development Agreement”), among KPTIA, KYTC, the Indiana Finance Authority, the Indiana Department of Transportation and the Louisville Southern Indiana Bridges Authority, as amended by that certain Addendum

#1, dated as of December 27, 2012 (unexecuted) (“Addendum #1), and by that certain Addendum #2, dated as of September 11, 2013;

5. Interlocal Cooperation Agreement for the Design, Procurement, Construction, Financing, Tolling, Operation, and Maintenance for the Louisville Southern Indiana Ohio River Bridges Project, effective as of December 17, 2012 (the “Interlocal Agreement”), among KPTIA, KYTC, the Indiana Finance Authority, and the Indiana Department of Transportation;
6. Design-Build Agreement for the Downtown Crossing portion of the Louisville Southern Indiana Ohio River Bridges Project between KYTC and Walsh Construction Company, executed as of December 28, 2012; and
7. The Trust Indenture dated as of December 1, 2013 and the Series Trust Indenture Number 2013-5, each between KPTIA and The Bank of New York Mellon Trust Company, N.A., as trustee.

As general counsel to KYTC, I am familiar with its organization, statutory authority, regulations (if any), and agreements, all as in effect on the date hereof. However, except for the documents described above, I have not, unless expressly otherwise indicated herein, reviewed any other documents or conducted any other examination of any public records, and the opinions rendered herein are limited accordingly. In rendering this Opinion, I have assumed the due authorization, execution, and delivery of all documents by the TIFIA Lender and any other parties thereto other than KYTC, and the conformity to authentic, original documents of all documents submitted to me as certified, conformed or photostatic copy.

Based upon the foregoing, and subject to the assumptions, qualifications and limitations set forth herein, I am of the opinion that:

1. KYTC is a department and agency of the Commonwealth of Kentucky duly organized and validly existing under the laws of the Commonwealth of Kentucky and constitutes a “State Agency” within the meaning of Sections 56.860, et seq. of the Kentucky Revised Statutes and has all requisite power and authority to conduct its business and execute and deliver, and to perform its obligations under the Direct Agreement and each Principal Project Contract to which it is a party.

2. The execution and delivery by KYTC of the Direct Agreement and each Principal Project Contract to which it is a party, and the performance by KYTC of its obligations under the Direct Agreement and each such Principal Project Contract, has been duly authorized by all necessary action of KYTC.

3. KYTC has duly executed and delivered the Direct Agreement and each Principal Project Contract to which it is a party and the Direct Agreement, and each such Principal Project Contract constitute the legal, valid, and binding obligation of KYTC enforceable against KYTC in accordance with its respective terms. No opinion is expressed hereby as to Addendum #1.

4. The execution, delivery, and performance by KYTC of the Direct Agreement and the Principal Project Contracts to which it is a party do not (i) violate any statute, rule, or regulation to which KYTC is subject, or (ii) constitute a breach of or default under any material written agreement or other instrument to which, to my knowledge, KYTC is a party, or (iii) to the best of my knowledge, violate any court order, consent, decree, or order to which KYTC is presently subject.

5. Except as disclosed by KPTIA in the Preliminary Official Statement dated as of November 26, 2013, there are no actions, suits, proceedings, or investigations pending or, to my knowledge, threatened by or before any court, arbitrator or any other governmental authority challenging the validity or enforceability of the Direct Agreement, or the Principal Project Contracts or contesting the powers or authority of KYTC to execute and deliver the Direct Agreement, or the Principal Project Contracts to which it is a party or to perform its obligations under the Direct Agreement, and the Principal Project Contracts to which it is a party.

6. To my knowledge, no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States or of the Commonwealth of Kentucky is required on the part of KYTC for the execution, delivery, or performance by KYTC with respect to the Direct Agreement, or any Principal Project Contract to which KYTC is a party.

The opinions set forth above are subject to the following qualifications:

A. My opinion concerning the enforceability of the Direct Agreement, and the Principal Project Contracts to which KYTC is a party is subject to [i] applicable bankruptcy, insolvency, reorganization, fraudulent conveyancing, preferential transfer, moratorium, or similar laws of general application and court decisions affecting the rights of creditors generally; and [ii] general principals of equity (regardless of whether enforceability is considered in a proceeding at law or in equity), including concepts of good faith, fair dealing, commercial reasonableness, and unconscionability.

B. Certain rights, remedies and other provisions in the Direct Agreement, the Lease and the Principal Project Contracts to which KYTC is a party may be limited or rendered unenforceable by applicable Kentucky laws or judicial decisions governing such provisions, but in my opinion such laws and judicial decisions do not make the remedies afforded by the Direct Agreement, and the Principal Project Contracts inadequate for the practical realization of the principal benefits intended to provide therein.

C. My opinion that the Direct Agreement, and the Principal Project Contracts to which KYTC is a party are enforceable in accordance with their terms does not mean that each and every waiver and remedy provided therein is enforceable; however, the unenforceability of any of such waivers and remedies that are not enforceable because of reasons other than applicable bankruptcy, insolvency, or similar laws affecting the rights of creditors generally, and

to general principles of equity, whether asserted in an action at law or in equity, will not materially impair the benefit to the TIFIA Lender of the security intended to be afforded by the Direct Agreement, and the Principal Project Contracts except for any economic consequences resulting from delay caused by the inability to enforce such waivers and remedies.

D. The qualification "to my knowledge," means that during the course of my representation of KYTC in connection with the transactions contemplated by the Direct Agreement and the Principal Project Contracts to which KYTC is a party, no information has come to my attention or to the attention of anyone in my office who has had an active involvement in negotiating the Direct Agreement or any of the Principal Project Contracts to which KYTC is a party or in preparing this Opinion that is contrary to the opinions expressed in this Opinion.

E. I am authorized to practice law in the Commonwealth of Kentucky and express no opinion as to the laws of any jurisdiction other than the Commonwealth of Kentucky and the United States of America.

F. I express no opinion on the investment quality of the TIFIA Bond.

G. This Opinion is rendered solely for your benefit in connection with the delivery of the Direct Agreement and the Lease and may not be relied upon in any manner by any other party without my prior written consent.

Sincerely,

---

Rebecca W. Goodman, Esq.  
Executive Director, Office of Legal Services  
Kentucky Transportation Cabinet

## EXHIBIT I

### SECTION 504 OF INDENTURE

#### **Section 504. Application of Amounts in the Authority System Revenue Fund**

Amounts in the Authority System Revenue Fund shall be applied on the 25th day of each month (or, if such 25th day is not a Business Day, on the next Business Day) solely for the purposes, in the amounts, and at the times set forth in this Section. The Trustee shall make payments and transfer to reserve funds, as applicable, in the order of priority set forth below, but as to each purpose, only within the limitations with respect thereto and only after payment has been brought current for every preceding purpose described in the following listing. To the extent that amounts available in the Authority System Revenue Fund are sufficient only to partially provide for one of the purposes described in (a) - (f), the available amount shall be allocated on a pro rata basis among the Series of Bonds in the applicable Tier. For purposes of this Section, Accreted Value shall be treated as "principal" in the amount of incremental Accreted Value accrued since the most recent allocation of an amount of Accreted Value as principal. With respect to individual Series of Bonds, each related Series Trust Indenture shall specify the month in which the deposits required by this Section 504 into the respective Debt Service Accounts are to commence.

(a) To the First Tier Debt Service Account, the following amounts with respect to each Series of First Tier Bonds, taking into account amounts already on deposit therein:

(i) (i) If interest (or Hedge Payments) on the Series of First Tier Bonds is payable monthly, an amount equal to the interest (or Hedge Payments) coming due on that Series of First Tier Bonds on the next succeeding Bond Interest Payment Date for that Series;

(ii) If interest (or Hedge Payments) on the Series of First Tier Bonds is payable other than monthly, an amount equal to the amount of interest coming due on that Series of First Tier Bonds on the next Bond Interest Payment Date divided by the number of months to and including such Bond Interest Payment Date (for example, if interest is payable semiannually, 1/6th of the next interest payment shall be deposited each month beginning in the month that the preceding Bond Interest Payment Date occurred); and

(iii) The principal of the Series of First Tier Bonds coming due on the next date for payment of principal of that Series of First Tier Bonds divided by the number of months to and including such principal payment date (for example, if principal is payable annually, 1/12th of the next principal payment shall be deposited each month beginning in the month that the preceding Bond Principal Payment Date occurred); provided that required deposits with respect to a Balloon

Maturity shall be adjusted as provided under the definition of Annual Debt Service and no such deposits shall be required for Bond Anticipation Obligations; provided that, upon and during the continuance of a Bankruptcy Related Event, references to First Tier in this paragraph shall also include Third Tier (with respect to TIFIA Bonds only) so that amounts in the Authority System Revenue Fund will be applied to TIFIA Bonds in the same manner as First Tier Bonds, as if TIFIA Bonds were First Tier Bonds.

(b) In priority order, first to the Revenue Subaccount of the First Tier Common Debt Service Reserve Account and second in each Series Debt Service Reserve Account, the amount necessary to cause the amount on deposit therein to equal the applicable Debt Service Reserve Requirement, or to reimburse a Credit Provider for a draw on a Credit Facility; provided that such amount shall be deposited in 12 equal, consecutive, monthly installments, the first such installment to be due in the calendar month next succeeding the month in which the deficiency exists; provided, that from and after the occurrence of a Bankruptcy Related Event affecting the Authority, the Debt Service Reserve Requirement for the First Tier Common Debt Service Reserve Account shall be increased by the amount of the Debt Service Reserve Requirement in respect of the TIFIA Bond. If in any month amounts are not available in the Authority System Revenue Fund to make such deposit, the Trustee shall so notify the Authority.

(c) To the Second Tier Debt Service Account, the following amounts with respect to each Series of Second Tier Bonds, taking into account amounts already on deposit therein:

(ii) (i) If interest (or Hedge Payments) on the Series of Second Tier Bonds is payable monthly, an amount equal to the interest (or Hedge Payments) coming due on that Series of Second Tier Bonds on the next succeeding Bond Interest Payment Date for that Series;

(ii) If interest (or Hedge Payments) on the Series of Second Tier Bonds is payable other than monthly, an amount equal to the amount of interest coming due on that Series of Second Tier Bonds on the next Bond Interest Payment Date divided by the number of months to and including such Bond Interest Payment Date; and

(iii) The principal of the Series of Second Tier Bonds coming due on the next date for payment of principal of that Series of Second Tier Bonds divided by the number of months to and including such principal payment date); provided that required deposits with respect to a Balloon Maturity shall be adjusted as provided under the definition of Annual Debt Service and no such deposits shall be required for Bond Anticipation Obligations.

(d) To the Second Tier Debt Service Reserve Accounts the amount, if any, necessary to restore the amounts on deposit therein to the applicable Debt Service Reserve Requirement(s), or to reimburse a Credit Provider for a draw on a Credit Facility in the Second Tier Debt Service Reserve Account; provided that such amount shall be

deposited in 12 equal, consecutive, monthly installments, the first such installment to be due in the calendar month next succeeding the month in which the applicable deficiency arose. If in any month amounts are not available in the Authority System Revenue Fund to make such deposit, the Trustee shall so notify the Transportation Cabinet.

(e) To the Third Tier Debt Service Account and to the TIFIA Bonds subaccount and Non TIFIA Bonds subaccount, as applicable, the following amounts with respect to each Series of Third Tier Bonds, taking into account amounts already on deposit therein:

(i) If interest (or Hedge Payments) on the Series of Third Tier Bonds is payable monthly, an amount equal to the interest (or Hedge Payments) coming due on that Series of Third Tier Bonds on the next succeeding Bond Interest Payment Date for that Series;

(ii) If interest (or Hedge Payments) on the Series of Third Tier Bonds is payable other than monthly, an amount equal to the amount of interest coming due on that Series of Third Tier Bonds on the next Bond Interest Payment Date divided by the number of months to and including such Bond Interest Payment Date; and

(iii) The principal of the Series of Third Tier Bonds coming due on the next date for payment of principal of that Series of Third Tier Bonds divided by the number of months to and including such principal payment date); provided that required deposits with respect to a Balloon Maturity shall be adjusted as provided under the definition of Annual Debt Service and no such deposits shall be required for Bond Anticipation Obligations;

provided further that, only Pledged Receipts that are not Federal Credit Payments shall be deposited in the TIFIA Bonds subaccount and applied to the payment of the principal of or interest on TIFIA Bonds.

(f) To the Third Tier Debt Service Reserve Accounts the amount, if any, necessary to restore the amounts on deposit therein to the applicable Debt Service Reserve Requirement(s), or to reimburse a Credit Provider for a draw on a Credit Facility in the Third Tier Debt Service Reserve Account; provided that such amount shall be deposited in 12 equal, consecutive, monthly installments, the first such installment to be due in the calendar month next succeeding the month in which the applicable deficiency arose. If in any month amounts are not available in the Authority System Revenue Fund to make such deposit, the Trustee shall so notify the Transportation Cabinet; provided that, after a Bankruptcy Related Event in accordance with Section 1012, unless a deposit in the Third Tier Debt Service Reserve Account is required to reimburse a Credit Provider for a draw on a Credit Facility, no further deposits shall be made to a Third Tier Debt Service Reserve Account established for the purpose of paying the principal of and interest on TIFIA Bonds.

(g) To the Tolling O&M Reserve Fund, an amount necessary to maintain a balance therein equal to the amount determined in accordance with Section 509.

(h) To the General O&M Reserve Fund, an amount necessary to maintain a balance therein equal to the amount determined in accordance with Section 510.

(i) To the M&R Reserve Fund, an amount necessary to maintain a balance therein equal to the amount determined in accordance with Section 511.

(j) To the Lease Payment Fund, the amount, if any, required to fund or repay Lease Payments, as provided in each Lease Agreement then in force and effect.

(k) To the General Reserve Fund, all remaining amounts.

**EXHIBIT J**

**CERTIFICATE OF TRUSTEE**

**KENTUCKY PUBLIC TRANSPORTATION INFRASTRUCTURE AUTHORITY**

**TIFIA Bond,  
Downtown Crossing Project  
(TIFIA-2013-1010A)**

The undersigned, The Bank of New York Mellon Trust Company, N.A. (the "*Trustee*"), by its duly appointed, qualified and acting Vice President, certifies with respect to the above referenced bond (the "*TIFIA Bond*") dated as of December 12, 2013, as follows (capitalized terms used in this certificate which are not otherwise defined shall have the meanings given to such terms in the Indenture (as defined below)):

1. That the Trustee is a national association duly organized and validly existing under the laws of the United States of America and is duly licensed and in good standing under the laws of the Commonwealth of Kentucky.

2. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the documents pertaining to the issuance of the TIFIA Bond have been obtained and are in full force and effect.

3. That the documents pertaining to the issuance of the TIFIA Bond to which the Trustee is a party were executed and the TIFIA Bond was authenticated on behalf of the Trustee by one or more of the persons whose names and offices appear on Exhibit A attached hereto and made part hereof, that each person was at the time of the execution of such documents and the authentication of the TIFIA Bond and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute such documents and to authenticate the TIFIA Bond, and that the signature appearing after the name of each such person is a true and correct specimen of that person's genuine signature.

4. That the undersigned is authorized to act as Trustee and accept the trusts conveyed to it under the Indenture ("*Trusts*"), has accepted the Trusts so conveyed and in so accepting the Trusts and so acting is in violation of no provision of its articles of association or bylaws, any law, regulation or court or administrative order or any agreement or other instrument to which it is a party or by which it may be bound.

5. That attached to this Certificate as Exhibit B is a full, true and correct copy of excerpts from resolutions of the board of directors of the Trustee and other applicable documents which evidence the Trustee's trust powers and the authority of the officers referred to above to act on behalf of the Trustee; and that these excerpts and other applicable documents were in effect on the date or dates such officers acted and remain in full force and effect today.

6. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Trustee pursuant to each of Section 2.03, Section 2.04 and Section 2.07 of that certain KPTIA 2013 General Indenture of Trust (the "*Indenture*"), dated as of December 1, 2013, between the Kentucky Public Transportation Infrastructure Authority (the "*Authority*") and the Trustee.

7. That receipt is also acknowledged of that certain TIFIA Loan Agreement, dated as of December 12, 2013 (the "*TIFIA Loan Agreement*"), between the Authority and the United States Department of Transportation (the "*TIFIA Bondholder*").

8. That The Bank of New York Mellon Trust Company, N.A. also accepts its appointment and agrees to perform the duties and responsibilities of Trustee and of Bond Registrar and Paying Agent for and in respect of the TIFIA Bond as set forth in the Indenture and the TIFIA Loan Agreement, including from time to time redeeming all or a portion of the TIFIA Bond as provided in Sections 508 and 513 of the Indenture. In accepting such duties and responsibilities, the Trustee shall be entitled to all of the privileges, immunities, rights and protections set forth in Article XI of the Indenture, and, in any event, shall not be liable in connection with such performance except to the extent of its negligence or willful misconduct.

9. That all Funds and Accounts for the payment of the TIFIA Bond pursuant to the Indenture (including, but not limited to, the Third Tier Debt Service Account and the sub-account established thereunder in favor of the TIFIA Bond) have been established as provided in the Indenture.

[SIGNATURE PAGE FOLLOWS]

Dated: [ ], 2013

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A.

By: \_\_\_\_\_  
Its: Vice President

**EXHIBIT A TO EXHIBIT J**  
**OFFICERS OF TRUSTEE**

**EXHIBIT B TO EXHIBIT J**  
**[RESOLUTIONS OF BOARD OF DIRECTORS OF TRUSTEE]**

## **EXHIBIT K**

### **FORM OF TRANSPORTATION CABINET DIRECT AGREEMENT**

#### **DIRECT AGREEMENT**

**THIS DIRECT AGREEMENT** (this “Agreement”), dated as of December 12, 2013, by and between **KENTUCKY TRANSPORTATION CABINET**, acting by and through its secretary or designee of its secretary (the “Transportation Cabinet”), and the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Administrator, with an address of 1200 New Jersey Avenue, S.E., Washington, DC 20590 (the “TIFIA Lender”).

#### **RECITALS:**

WHEREAS, Kentucky Public Transportation Infrastructure Authority, an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky (the “Borrower”), the Transportation Cabinet, the Indiana Finance Authority, a body politic and corporate created by the state of Indiana (“IFA”), and the Indiana Department of Transportation, an agency of the state of Indiana (“INDOT”), have entered into that certain Interlocal Cooperation Agreement for the Design, Procurement, Construction, Financing, Tolling, Operation and Maintenance for the Louisville-Southern Indiana Ohio River Bridges Project, effective as of December 17, 2012 (as further amended, supplemented or otherwise modified from time to time, the “Interlocal Agreement”);

WHEREAS, the Borrower, the Transportation Cabinet, INDOT and IFA have entered into that certain Bi-State Development Agreement, effective December 20, 2012, as amended by that certain Addendum #1, dated as of December 27, 2012, and by that certain Addendum #2, dated as of September 11, 2013 (as further amended, supplemented or otherwise modified from time to time, the “Development Agreement”);

WHEREAS, the Transportation Cabinet and Walsh Construction Company, a corporation organized under the laws of the State of Illinois (the “Construction Contractor”), have entered into that certain Design-Build Agreement, dated as of December 28, 2012 (as amended, supplemented or otherwise modified from time to time, the “Construction Agreement”);

WHEREAS, the Transportation Cabinet and the Borrower, have entered into that certain Lease Agreement, dated as of December 1, 2013 (as amended, supplemented or otherwise modified from time to time, the “Lease Agreement” and, together with the Interlocal Agreement, the Development Agreement and the Construction Agreement, the “KYTC Agreements”);

WHEREAS, the Borrower and the TIFIA Lender have entered into that certain TIFIA Loan Agreement, dated as of the date hereof (as amended, supplemented or otherwise modified from time to time, the “Loan Agreement”), pursuant to which, among other things, the TIFIA Lender has extended certain commitments to make loans and other credit accommodations to, and for the benefit of, the Borrower. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Loan Agreement; and

WHEREAS, as further consideration for the TIFIA Lender's willingness to enter into the Loan Agreement, the TIFIA Lender has requested the Transportation Cabinet, and the Transportation Cabinet has agreed, to enter into this Agreement to clarify certain provisions of, and memorialize certain understandings.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

**1. ACKNOWLEDGEMENTS.**

1.1 Acknowledgement. The Transportation Cabinet is hereby notified and acknowledges that (a) the TIFIA Lender and the Borrower have entered into the Loan Agreement, (b) the Trustee and the Borrower have entered into the Indenture, (c) copies of the Loan Agreement and the Indenture have been made available to the Transportation Cabinet and (d) the Borrower, pursuant to the Indenture, has pledged to the TIFIA Lender (among others) all of the Borrower's right, title and interest in, to and under the Pledged Receipts.

1.2 No Liability. The Transportation Cabinet acknowledges and agrees that neither the TIFIA Lender nor any of its designees (any of the foregoing, a "Party in Interest") shall have any liability or obligation under any KYTC Agreement as a result of this Agreement, the Loan Agreement or otherwise, nor shall any Party in Interest be obligated or required to perform any of the Borrower's obligations under the Lease Agreement.

1.3 Conflicts between Indenture and Lease Agreement. Each of the Transportation Cabinet and the Borrower acknowledges and agrees that, should any conflict exist between the terms of the Lease Agreement and the terms of the Indenture, the Borrower shall comply with the terms of the Indenture, the Transportation Cabinet shall not exercise any rights under the Lease Agreement inconsistent therewith and the Transportation Cabinet and the Borrower shall resolve such conflict by amending or supplementing the Lease Agreement.

**2. AGREEMENTS.**

**2.1 No Amendments; Enforcement of Rights; Additional Project Contracts.**

(a) The Transportation Cabinet shall not, without the prior written consent of the TIFIA Lender, terminate, assign, amend or modify, or waive timely performance by any party (and the Transportation Cabinet, to the extent it has any power to authorize its representative to vote in a particular way, shall not authorize its representative to the Joint Board or the Tolling Body (or other committee established thereunder or pursuant to the Development Agreement or Interlocal Agreement) to vote in favor of any such termination, assignment, amendment, modification or waiver) of material covenants under any Principal Project Contract to which the Transportation Cabinet, the Joint Board or the Tolling Body is a party or has consent authority or by which the Transportation Cabinet is bound, except for a termination, assignment, amendment, modification or waiver that could not reasonably be expected to have a Material Adverse Effect.

(b) The Transportation Cabinet shall comply in all material respects with the Principal Project Contracts to which it is a party or by which it is bound. The Transportation Cabinet shall enforce the performance and observance of all material obligations, agreements and covenants of the Construction Contractor under the Construction Agreement, including all rights and remedies with respect to the collection of liquidated damages pursuant to Section 8.2 of the Construction Agreement and enforcement against the surety or sureties under the payment bond and performance bond provided pursuant to Section 11.2 of the Construction Agreement.

(c) The Transportation Cabinet shall not, without the prior written consent of the TIFIA Lender, (i) enter into any Principal Project Contract that is not in effect as of the Effective Date or replace any Principal Project Contract that is in effect as of the Effective Date; provided, that, subject to Section 16(b)(ii) of the Loan Agreement, the TIFIA Lender's approval shall not be required with respect to any Tolling Related Agreement; or (ii) to the extent it has any power to authorize its representative to vote in a particular way, authorize its representative on the Joint Board or the Tolling Body (or other committee established thereunder or pursuant to the Development Agreement or Interlocal Agreement) to vote in favor of any contract or delegation of authority to enter into any Principal Project Contract (other than a Tolling Related Agreement) or Additional Project Contract subject to Section 17(e)(ii) of the Loan Agreement, or replacement of any of the foregoing, through its participation on the Joint Board, Tolling Body or other committee established thereunder or pursuant to the Development Agreement or Interlocal Agreement.

## 2.2 Delivery of Notices and Documents; Reporting.

(a) The Transportation Cabinet shall, within five (5) Business Days after the Transportation Cabinet learns of the occurrence thereof, give the TIFIA Lender notice of any of the following events, setting forth details of such event:

(i) the filing of any actual litigation, suit or action, or the delivery to the Transportation Cabinet of any written claim with respect to the Project, which could reasonably be expected to have a Material Adverse Effect;

(ii) any insurance claims relating to the Project in excess of \$1,000,000 either individually or in the aggregate;

(iii) any amendments delivered to, received from or entered into with any counterparty under any Principal Project Contract to which it is a party;

(iv) any material breach or default or event of default on the part of the Transportation Cabinet or any counterparty under any Principal Project Contract to which it is a party; or

(v) the occurrence of (A) any Uncontrollable Force affecting either the Authority System or any other portion of the LSIORB Project or (B) any material change to the Construction Schedule.

(b) The Transportation Cabinet shall provide to the TIFIA Lender, promptly after execution thereof, a copy of each Additional Project Contract to which the Transportation Cabinet becomes a party.

(c) The Transportation Cabinet shall respond, and use commercially reasonable efforts to cause the Construction Contractor to respond, to the TIFIA Lender's inquiries regarding (i) any Monthly Construction Progress Report delivered by the Borrower pursuant to Section 23(b)(ii) of the Loan Agreement, (ii) the construction of the Project and (iii) the Construction Contractor's performance of its obligations under the Construction Agreement.

**2.3 Authority System Revenue Fund.** The Transportation Cabinet shall cause all Authority Toll Revenues and all delay liquidated damages received by the Transportation Cabinet (including by way of setoff) pursuant to the Construction Agreement or any Tolling Related Agreement to be deposited into the Authority System Revenue Fund. In the event that the Transportation Cabinet receives any amounts paid out under the Custody Agreement, the Transportation Cabinet shall not retain any amounts paid to it under the Custody Agreement but shall promptly, and in any event within three (3) Business Days of receipt thereof, deposit all such received amounts into the Authority System Revenue Fund.

**2.4 Operations and Maintenance; Events of Loss.**

(a) The Transportation Cabinet shall (i) operate and maintain the Authority System (A) in a reasonable and prudent manner and (B) substantially in accordance with the Financial Plan (except as necessary to prevent or mitigate immediate threats to human health and safety or to prevent or mitigate physical damage to material portions of the Authority System) and (ii) maintain the Authority System in good repair, working order and condition and in accordance with the requirements of the Principal Project Contracts. The Transportation Cabinet shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the rights, licenses, permits, franchises and authorizations material to the conduct of its business, and comply in all material respects with all applicable federal, state and local laws, rules, regulations, orders, decrees, judgments or administrative decisions, whether now in effect or hereafter enacted, of any Governmental Authority having jurisdiction over the Transportation Cabinet or its assets or operations. The Transportation Cabinet shall obtain and maintain all permits and Governmental Approvals required to be held in its name that are necessary for the development, construction, operation and maintenance of the Project.

(b) Notwithstanding anything in the Lease Agreement to the contrary, in the event Rent or Additional Rent (each as defined in the Lease Agreement) is required and an appropriation to pay such Rent or Additional Rent has not been made or has been delayed as of the due date therefor, the Transportation Cabinet shall use amounts from the Transportation Cabinet's own funds to pay the costs and expenses for which such Rent or Additional Rent is required by the due date for payment of such costs and expenses.

(c) If an Event of Loss shall occur with respect to the Authority System or any part thereof, the Transportation Cabinet shall (A) diligently repair, reconstruct or replace the damaged or destroyed property and (B) to the extent Loss Proceeds are not available, use

amounts from the Transportation Cabinet's own funds to pay the costs for such repair, reconstruction or replacement.

**2.5 Inspections; Reports and Records.** So long as the TIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the TIFIA Loan shall have been paid in full, the TIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any of the locations or properties of the Transportation Cabinet, to examine its books of account and records, to make copies and extracts therefrom at the Transportation Cabinet's expense, and to discuss the affairs, finances and accounts of the Transportation Cabinet with, and to be advised as to the same by, the officers and employees of the Transportation Cabinet and its respective independent public accountants (and by this provision the Transportation Cabinet irrevocably authorizes its independent public accountants to discuss with the TIFIA Lender the affairs, finances and accounts of the Transportation Cabinet, whether or not any representative of the Transportation Cabinet is present, it being understood that nothing contained in this Section 2.5 is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the TIFIA Lender may desire. The Transportation Cabinet agrees to pay all out-of-pocket expenses incurred by the TIFIA Lender in connection with the TIFIA Lender's exercise of its rights under this Section 2.5 at any time when an Event of Default shall have occurred and be continuing.

**2.6 Project Development, Design and Construction.** The TIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) development, including environmental compliance, design, right-of-way acquisition, and construction of the Project. The Transportation Cabinet shall be responsible for administering construction oversight of the Project in accordance with the Development Agreement. The Transportation Cabinet's oversight of Project development, environmental compliance, design, right-of-way acquisition, and construction monitoring shall be conducted pursuant to the Project Oversight Agreement, which may be amended from time to time upon mutual agreement of the Transportation Cabinet and FHWA, or when so required by federal statute or otherwise required by the United States Congress. The Transportation Cabinet agrees to cooperate in good faith with the TIFIA Lender in the conduct of such monitoring by promptly providing the TIFIA Lender with such reports, documentation or other information as shall be requested by the TIFIA Lender, or its agents, including any independent or consulting engineer reports, documentation or information.

**2.7 Replacement Agreements.** In the event the Borrower is abolished or merges into or consolidates with another entity and the Kentucky General Assembly has designated an entity to continue to carry out the covenants contained in and the performance of all obligations arising under the Related Documents to which it is a party, the Transportation Cabinet shall, at the option of the TIFIA Lender, enter into a new agreement with such entity having identical terms as such Related Documents (subject to any conforming changes necessitated by the substitution of parties); provided that such entity shall be liable for all obligations arising under such new agreement.

**2.8 Appropriations Request.** The Transportation Cabinet shall seek appropriations in an annual amount equal to \$50,000,000 in funds for the Project for each of the fiscal years ending June 30, 2015, June 30, 2016, June 30, 2017 and June 30, 2018, consistent with the 2014-

2018 Highway Preconstruction Program Plan, as enacted with passage of House Joint Resolution 77 during the 2012 Regular Session of the Kentucky General Assembly.

2.9 Toll Rates. The Transportation Cabinet will at least annually, prior to June 30 of each Fiscal Year (as defined in the Indenture), review the financial condition of the System (as defined in the Indenture), the anticipated Total System Expenses (as defined in the Indenture), Debt Service Reserve Requirement (as defined in the Indenture), various reserves and other costs of the System (as defined in the Indenture), and proceed in a timely fashion to recommend to the Tolling Body any required adjustment to the Toll Rate Schedule (as defined in the Indenture) it determines is necessary for the Borrower to comply with Section 708(a) of the Indenture to provide sufficient Authority System Revenue to fund amounts required to be deposited and maintained in the Funds and Accounts (as defined in the Indenture) and to comply with other relevant covenants in the Indenture and the Loan Agreement.

2.10 Certain Covenants Contained in the Loan Agreement. The Transportation Cabinet shall comply with each of the covenants contained in Section 16(d) (Prosecution of Work), Section 16(f) (Insurance), Section 16(p) (OFAC Compliance), Section 16(q) (Principal Project Contracts), Section 16(r) (Events of Loss; Loss Proceeds); Section 17(b) (No Lien Extinguishment or Adverse Amendments), clause (i) of Section 17(h) (Organizational Documents) and Section 17(k) (Allocation of Revenues) of the Loan Agreement as though each such provision was set forth in this Agreement and made applicable to the Transportation Cabinet.

### 3. REPRESENTATIONS AND WARRANTIES.

The Transportation Cabinet hereby makes the following representations and warranties in favor of the TIFIA Lender as of the date hereof and as of the date on which any disbursement of the TIFIA Loan is requested or made.

3.1 Organization. The Transportation Cabinet is a statutory agency of the State, has full legal right, power and authority to enter into this Agreement and to carry out and consummate all transactions contemplated hereby, has and had, as of the respective date of execution and delivery, full legal right, power and authority to enter into the Principal Project Contracts to which it is a party and to carry out and consummate all transactions contemplated thereby and has duly authorized the execution, delivery and performance of this Agreement and the Principal Project Contracts to which it is a party.

3.2 Officer's Authorization. As of the date hereof, the officers of the Transportation Cabinet executing this Agreement are duly and properly in office and fully authorized to execute the same. As of the respective date of execution and delivery, the officers of the Transportation Cabinet executing the Principal Project Contracts to which it is a party were duly and properly in office and fully authorized to execute the same.

3.3 Due Execution; Enforceability. This Agreement and the Principal Project Contracts to which it is a party has been duly authorized, executed and delivered by the Transportation Cabinet and constitutes the legal, valid and binding agreement of the Transportation Cabinet enforceable in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws

affecting the rights of creditors generally and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

3.4 Non-Contravention. The execution and delivery of the Related Documents to which the Transportation Cabinet is a party, the consummation of the transactions contemplated in the Related Documents and the fulfillment of or compliance with the terms and conditions of such Related Documents will not (i) conflict with any Organizational Documents for the Joint Board, the Tolling Body or any other body or committee established in connection with the Project, or (ii) conflict in any material respect with, or constitute a violation, breach or default (with due notice or the passage of time or both) by the Transportation Cabinet of or under, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, any Principal Project Contract, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Transportation Cabinet is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Transportation Cabinet.

3.5 Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Transportation Cabinet or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Transportation Cabinet of this Agreement and the Principal Project Contracts to which it is a party, except as have been obtained or made and as are in full force and effect or (ii)(A) the consummation of any transaction contemplated by this Agreement and the Principal Project Contracts to which it is a party or (B) the fulfillment of, or compliance by the Transportation Cabinet with, the terms and conditions of by this Agreement and the Principal Project Contracts to which it is a party, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

3.6 Litigation. As of the date hereof, there is no action, suit, proceeding, inquiry or investigation before or by any court or other Governmental Authority pending or, to the knowledge of the Transportation Cabinet after reasonable inquiry and investigation, threatened against or affecting the Project, the LSIORB Project, any Borrower Related Entity or the assets, properties or operations of the Transportation Cabinet other than the case *National Trust for Historic Preservation, et al. vs. Federal Highway Administration, et al.*, Case No. 13-6214 (6th Cir. Filed September 23, 2013). There is no action, suit, proceeding, inquiry or investigation before or by any court or other Governmental Authority pending or, to the knowledge of the Transportation Cabinet after reasonable inquiry and investigation, threatened against or affecting the Project, the LSIORB Project, any Borrower Related Entity or the assets, properties or operations of the Transportation Cabinet, which in any case (i) could reasonably be expected to have a Material Adverse Effect or (ii) could reasonably be expected to adversely affect the Borrower's ability to receive Authority Toll Revenues in amounts sufficient to meet the revenue projections contained in the Base Case Model. To the Transportation Cabinet's knowledge, there are no actions of the type described above pending or, threatened against or affecting any of the Principal Project Parties, except for matters arising after the date hereof that could not reasonably be expected to have a Material Adverse Effect. The Transportation Cabinet is not in

default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to have a Material Adverse Effect.

3.7 No Defaults. The Transportation Cabinet is not in breach under the terms of any Principal Project Contract to which it is a party, and to the knowledge of the Transportation Cabinet, no party to any of Principal Project Contract is in breach of any material term therein or in default thereunder.

3.8 Certain Representations and Warranties Contained in the Loan Agreement. The Transportation Cabinet hereby makes the representations and warranties contained in Section 14(h) (No Debarment), Section 14(i) (Accuracy of Representations and Warranties), Section 14(n) (Permits), Section 14(o) (Principal Project Contracts), Section 14(q) (OFAC), Section 14(r) (Compliance with Law), Section 14(s) (Environmental Matters), Section 14(t) (Sufficient Rights and Utilities), Section 14(v) (Title), Section 14(w) (No Liens), Section 14(x) (Intellectual Property), Section 14(aa) (Taxes), Section 14(cc) (Transactions with Related Governmental Authorities), Section 14(ff) (Patriot Act) and Section 14(gg) (East End Crossing Property) of the Loan Agreement as though each such representation and warranty was set forth in this Agreement and made applicable to the Transportation Cabinet and set forth on Appendix 1 hereto are the disclosure schedules applicable to such representations and warranties; provided, that the disclosure schedule requirement of Section 14(cc) of the Loan Agreement shall not apply to the Transportation Cabinet.

3.9 Representations in Other Related Documents. In addition to the representations and warranties set forth in this Agreement, the representations, warranties and certifications of the Transportation Cabinet set forth in each other Related Document to which the Transportation Cabinet is a party are true and accurate, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties are true and correct as of such earlier date).

#### 4. MISCELLANEOUS.

4.1 Headings. The headings or titles of this Agreement and its sections are for convenience of reference only and shall not define or limit its provisions

4.2 Amendments and Waivers. No amendment, modification, termination or waiver of any provision of this Agreement shall in any event be effective without the written consent of the Transportation Cabinet and the TIFIA Lender.

4.3 Governing Law. This Agreement shall be governed by the federal laws of the United States if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

4.4 Severability. In case any provision in or obligation under this Agreement 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.

4.5 Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither of the Transportation Cabinet's or the Borrower's rights or obligations hereunder nor any interest therein may be assigned or delegated by the Transportation Cabinet or the Borrower without the prior written consent of the TIFIA Lender, except, in the case of the Borrower, in connection with any consolidation by the Borrower with or merger of the Borrower into another Person or any other change to the Borrower's legal existence, in each case, that is expressly permitted by the Loan Agreement.

4.6 Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

4.7 Notices. Notices hereunder shall be (a) in writing, (b) effective upon receipt (except as otherwise provided herein) and (c) given by (i) nationally recognized courier service, (ii) hand delivery or (iii) solely with respect to ministerial or non-substantive notices, email, in each case to:

If to the Transportation Cabinet:

Kentucky Transportation Cabinet  
200 Mero Street  
Frankfort, KY 40622  
Attention: Secretary  
Email: [Michael.Hancock@ky.gov](mailto:Michael.Hancock@ky.gov)

If to the Borrower:

Kentucky Public Transportation Infrastructure Authority  
c/o Kentucky Transportation Cabinet  
200 Mero Street  
Frankfort, KY 40622  
Attention: Chairman  
Email: [Michael.Hancock@ky.gov](mailto:Michael.Hancock@ky.gov)

If to the TIFIA Lender:

TIFIA Joint Program Office (HITJ)  
Federal Highway Administration  
Room E64-301  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
Attention: Director  
Email: [TIFIAcredit@dot.gov](mailto:TIFIAcredit@dot.gov)

with copies to:

Federal Highway Administration  
State Division Office  
John C. Watts Federal Building  
330 West Broadway  
Frankfort, Kentucky 40601  
Attention: Division Administrator

Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a party. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 4.7 (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 4.7 (or in accordance with the latest unrevoked written direction from the receiving party) and all necessary confirmations have been received in accordance herewith; provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

Each party hereto shall maintain a designated representative to receive notices, and may designate a reasonable number of additional representatives to receive electronic versions of notices. A party hereto may, by written notice to the other parties hereto, change any such representative from time to time.

4.8 Termination. This Agreement shall terminate upon payment in full by the Borrower of the TIFIA Loan, except for those provisions which by the terms survive beyond such time.

4.9 Integration. This Agreement constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

*[The Remainder of this Page is Intentionally Left Blank]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the date first above written to be effective as of the date first above written.

**UNITED STATES DEPARTMENT OF  
TRANSPORTATION**, acting by and through the  
Federal Highway Administrator

By: \_\_\_\_\_

Name: Victor M. Mendez

Title: Administrator

[Signature Page to the Direct Agreement]



**KENTUCKY TRANSPORTATION  
CABINET**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY:**

By: \_\_\_\_\_  
Name: Rebecca W. Goodman  
Title: Executive Director of the Office of Legal Services  
Transportation Cabinet

Date: December \_\_, 2013

**ACKNOWLEDGED AND AGREED:**

**KENTUCKY PUBLIC TRANSPORTATION  
INFRASTRUCTURE AUTHORITY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY:**

By: \_\_\_\_\_  
Name: Laura Theilmann, Esq. of Wyatt, Tarrant & Combs, LLP  
Title: Special Counsel to the Authority

Date: December \_\_, 2013

[Signature Page to the Direct Agreement]



**DISCLOSURE SCHEDULES**

**Schedule 14(s) – Environmental Matters**

None.

**Schedule 14(t) – Governmental Approvals**

See attached.

**Schedule 14(x) – Intellectual Property**

None.

